

KAKL510014362014



IN THE COURT OF THE II ADDL. CIVIL JUDGE & JMFC
AT K.G.F.

Dated this the 27th day of September 2021

:: PRESENT::

**KIRAN S.P., B.B.M., LL.B.,
II Addl. Civil Judge, K.G.F.**

OS No 384/2014

Plaintiff : - Sri.K.Govardhan Reddy

V/s.

Defendants :- Sri.K.Chandrashekar & others

Cause Title On IA NO. VII

**Applicant: - Sri. K.Sundar Rama Reddy,
S/O. M.Krishna Reddy,
Aged About 53 Years,
R/at. No. 427, Old Swarnakuppam,
North of Pritchard Road,
Robertsonpet
KGF – 563 122**

V/s.

**Respondents:- Sri. T.Sundarachari,
S/O. Thimmarayachari,
Aged about 46 Years,
R/at. Sai Complex, 3rd cross,
Robertsonpet, KGF.**

(By Sri. V.V., Advocate,)

: ORDER ON IA NO.VII :

This is an application filed by the defendant no.2 U/O 1 rule 10(2) R/W sec. 151 of CPC requesting the court to implead the proposed defendant in the suit for effective adjudication of dispute involved in the suit.

02. In the accompanying affidavit of IA, it is stated that the plaintiff has made T.Chandra achari as Defendant no. 4, apprehending the purchase of the suit schedule property and the impleading defendant T. Sundara Achari is none other than the younger brother of defendant no.4, and who are all in turn are aspired purchasers of land in and around the suit schedule property and making layouts in and around the suit schedule property premises and further the said impleading defendant no.5, has stated to have purchased 4 guntas of land from their mother smt. D.C. Laksmamma through a registered sale deed dated 11-06-2020, which property ought to have been divided between applicant and defendant no. 1 and 3 including the plaintiff, but the plaintiff in order to cause wrongful loss to them, and to make wrongful gain to plaintiff, Smt. Lakshamma got registered 4 guntas along with 6 guntas through a sale deed dated 11-06-2020 and apprehending that the said defendant no.4 and the

proposed defendant no.5 are doing joint development of the land in and around the suit schedule properties. The method of hook and crook at the advice of his ill advisors and also at the consonance of land grabbers who are all active in order to grab the precious suit schedule properties and to make lawful gain over the same. Hence he prays to allow the IA .

03. This application is resisted by the respondent by filing objections. It is stated in the objections that the proposed defendant is a bonafide purchaser of land from Smt. Lakshamma which property was exclusively owned and possessed by her, it is needless to state that ownership right of Smt. Lakshamma includes right to sell and none in this suit including defendant no.2 have any right, title or interest over the property purchased by this proposed defendant no.5. Even otherwise, if the defendant no.2 has any grouse, he is at liberty to sue this proposed defendant no.2 and question his sale deed and definitely not in the instant suit. The proposed defendant no.5 is neither a necessary party nor a proper party and his presence is not at all necessary for adjudication of this case. On these grounds he prays for dismissal of the IA .

04. Heard both sides.

05. The point that would arise for my consideration is;

Point No.1: Whether the applicant has made out sufficient grounds that the proposed defendant is necessary party for fair and effective adjudication of the case ?

Point No.2: What order?

06. The findings on the above points are as follows;

Point no.1: In the Affirmative

Point no.2: As per final order, for the following;

R E A S O N S

07. Point no.1: The plaintiff has filed this suit for the relief of permanent injunction with respect to item no. 1 to 5 of suit schedule property. On the other hand the defendant no.2 has claimed counter claim for the relief of partition over the item no. 1to 4 of suit schedule properties. The purchaser of joint family property is necessary party to the suit for partition. According to defendant no.2, the proposed defendant no.5 has purchased 4 guntas from the mother of plaintiff and defendant no.1 to 3 through registered sale deed dated 07-06-2020. There is no dispute that joint family properties of plaintiff and defendant no.1 to 3 have already been partitioned through partition deed dated 11-06-2009. Some portion of properties were fallen to the share of parents of the plaintiff and the defendant no.1 to 3. But the defendant no.2 contended that the properties

which are fallen to the share of parents of plaintiff and defendant no.1 to 3, have joint family properties of plaintiff and defendant no. 1 to 3 and defendant no.2 has right to got share over the item no. 1 to 4 properties. This is a counter claim for comprehensive relief of partition with respect item no. 1 to 4 properties. Whether the defendant no.4 has right to got share over the suit schedule properties or not will be adjudicated at the full fledged trail. As already stated above, in a suit for partition, the purchaser of the joint family or ancestral properties is also a necessary party in the suit. Hence in the absence of proposed defendant, no effective decree can be passed. Hence defendant no.2 has made out grounds to implead proposed defendant no.5 in the suit. Accordingly Point no.1 is answered in the Affirmative.

08. **Point No.2:** For the foregoing reasons I proceed to pass the following;

ORDER

I.A no. 7 filed by the defendant no.2 under order 1 rule 10 (2) R/W sec. 151 of CPC is hereby allowed.

The plaintiff is hereby directed to implead the proposed defendant no.5 as defendant no.5 in the suit.

No order as to costs.

(Dictated to the stenographer, transcribed by her, corrected and then pronounced in the open Court on this the 27th day of September 2021)

SD/-

(KIRAN S.P)

II Addl. Civil Judge & JMFC, KGF

