

ORDERS ON I.A. No.6 FILED BY THE
PLAINTIFF U/O. I R. 10(2) R/W SEC 151
OF C.P.C

The plaintiff has filed this application U/O. I rule 10(2) R/W Sec.151 of CPC and prays the Court to implead Master. Nithin and Baby. Sindhu as defendant No.3 and 4 to this suit.

2. This Court issued I.A. notices to defendant No.2, the mother of proposed defendants. In response to the service of notice, the defendant No.2 being the mother of proposed defendants appeared through her counsel and submitted no objections to this application.

3. I have heard both the counsels on this application.

4. The plaintiff has filed this suit against the defendants seeking the relief of partition and separate possession of her 1/3rd share in the suit schedule properties by metes and bounds.

Now the case stands posted for plaintiff's evidence.

5. The proposed defendant No.3 and 4 are the minor children of defendant No.2. According to the plaintiff suit schedule properties are their undivided joint family properties. The defendant No.1 and 2 in their written statement at para No.12 have pleaded that, the land measuring 1 acre 29 guntas in Sy. No. 128/1 is the self acquired property of Krishnamma W/o C. Palaniyappan. Her father Soorappa Gounder had gifted the said property in her favour. She bequeathed that property in favour of her grand children namely Master. Nithin and Baby Sindhu on 14.11.2014 through a registered will, wherein the their mother i.e., defendant No.2 has been appointed as minor guardian. On the strength of the registered will, Master. Nithin and Baby.

Sindhu represented by their mother are in possession and enjoyment of the that property. That property is described as item No.1 schedule property.

6. As the said property stands in the name of Master. Nithin and Baby. Sindhu, the plaintiff intends to implead them as parties to the suit. Because, the plaintiff is also claiming her 1/3rd share in that property also. The proposed defendant No.3 and 4 are agitating their absolute rights over item No.1 schedule property on the strength of registered will.

7. If the Court proceeds further in the matter in the absence of Master. Nithin and Baby. Sindhu, their rights if any in the property will be affected. Therefore, they are the necessary parties to this suit. Rejection of this application may lead to multiplicity of proceedings. The presence of proposed

defendant No.3 and 4 is necessary to elucidate the real dispute between the parties. In their absence, the Court cannot pass an effective order or decree. By considering all these aspects, I proceed to pass the following:

ORDER

I.A. No.6 filed by the plaintiff
U/O. I R. 10(2) R/W Sec. 151 of
C.P.C is hereby allowed .

The plaintiff is permitted to
implead Master. Nithin and Baby.
Sindu as defendant No.3 and 4 to
this suit, by suitably amending
the cause title of the plaint.

To carry out amendment and
to file amended plaint.

Senior Civil Judge & JMFC
Hiriyur.

ORDERS ON I.A. No.7 FILED BY THE
PLAINTIFF U/O. XXXII R. 3 R/W SEC 151
OF C.P.C

The plaintiff has filed this application U/O. XXXII rule 3 R/W Sec.151 of CPC and prays the Court to appoint defendant No.2 as the guardian of proposed defendant No.3 and 4.

2. Though the defendant No.2 being the mother of minor defendant No.3 and 4 appeared through her counsel, has not chosen to file her objections. She has submitted no objections to implead her minor children as parties to the suit.

3. I have heard both the counsels on this application.

4. The plaintiff has filed this suit against the defendants seeking the relief of partition and separate possession of her 1/3rd share in the suit schedule properties by metes and

bounds. It is the specific defense of the defendants that, Smt. Krishnamma W/o. C. Palaniyappan was the absolute owner in possession of item No.1 schedule property and she bequeathed the said property in favour of her grand children on 14.11.2014 through a registered will.

5. On the basis of registered will they are in possession and enjoyment of item No.1 schedule property. In view of the defense taken by the defendants, the plaintiff filed an application to implead Master. Nithin and Baby. Sindhu as parties to this suit. This Court allowed the said application and ordered to implead minor Nithin and Sindhu as parties to this suit.

6. The Court has to consider the paramount welfare of the minors ,while dealing with their cases. Mother is the best person to represent her minor children. She is the best person to

take care of her children as well as their property. By considering all these aspects, I proceed to pass the following:

ORDER

I.A. No.7 filed by the plaintiff
U/O. XXXII R. 3 R/W Sec. 151 of
C.P.C is hereby allowed.

The defendant No.2 is appointed
as guardian of minor defendant
No.3 and 4 namely Master. Nithin
and Baby. Sindu to defend this
suit on behalf to the minors.

Call on 04.03.2020.

Senior Civil Judge & JMFC
Hiriyur