

KACM200000292024



IN THE COURT OF SENIOR CIVIL JUDGE,
AT: KADUR

Present:- Sri. IRFAN.
B.A., LL.B.,
Senior Civil Judge & JMFC,
Kadur, Chikkamagaluru District.

Dated: this the 12th day November - 2025

O.S.No.6/2024

Plaintiff:- Smt. Kiran Kumari.
(By: Sri. DNP / KAS., Advocates)

V/s

Defendants:- Smt. Nagarathnamma & others.

(Defendant No.1 by: Sri. K.P.N., Advocate).
(Defendants No.2 to 6 by: Sri. S.S., Advocate).
(Defendants No.7 & 8 - Exparte).

RANK OF THE PARTIES ON I.A.NO.X

Applicant/
Plaintiff : Smt. Kiran Kumari.

V/s

Opponents /
Defendants : Smt. Nagarathnamma & others.



Proposed Defendants :(9) Sri. G. Mohankumar,
S/o Gidda Naik,
Aged about 40 years,
K.E.B. Contractor
Mobile No. 99021 71833.

(10)Smt. Vinodabai,
W/o Late Gidda Naika,
Aged about 60 years,

Both are residents of
Opposite B.G.S. School,
Maravanji Road,
Kadur Town, Kadur Taluk.

(Proposed defendants No.9 & 10 by: Sri. N.N.V., Advocate)

i	<i>Provision under which the application is filed</i>	<i>U/O 1 Rule 10 (2) R/w Sec.151 of CPC</i>
ii	<i>Relief sought for</i>	<i>Implead the proposed defendants as defendants No.9 & 10.</i>
iii	<i>The date on which the application is filed</i>	<i>23.09.2024.</i>
iv	<i>Number of the application</i>	<i>X</i>
v	<i>The date on which the objections are filed by different opponent</i>	<i>12.02.2025 by the proposed defendants No.9 and 10.</i>
vi	<i>The date on which the orders were passed on the said application</i>	<i>12.12.2025.</i>

*When the case is posted for amendment and to file
amended plaint, the plaintiff has filed this application.*



ORDERS ON I.A.X

The applicant / plaintiff has filed this IA, under Order I Rule 10(2) R/w Sec.151 of C.P.C., and prays to implead the proposed defendants as defendant No.9 and 10 by contending that the proposed defendants have entered into an agreement to purchase the suit schedule property from the 1st defendant, which is their ancestral property and she has got equal share in the said property. The 1st defendant has no independent right and she is not in exclusive possession over the said land to alienate it to anybody. All other coparceners are having interest and right over the said land. There is no necessity in their joint family to sell the same. The 1st defendant in order to have wrongful gain and to defraud her, is making attempt to sell the same. If the application is not allowed, she and other coparceners in their joint undivided family are put to great hardship and injury. If the proposed defendants are succeed in purchasing the same without the consent of other family members, it leads to multiplicity of proceedings. Hence, the proposed defendants are very much necessary to the suit.



2. After service of notice, the proposed defendants appeared before the court through their counsel and filed objections stating that the appellants have sworn to false affidavit by suppressing the material facts and by creating the false story. The 1st defendant stated that the husband of 1st defendant is a retired medical officer and settled at Shivamogga City, hence they are not in a position to cultivate the properties. Therefore, they have engaged the proposed defendants to cultivate the properties on their behalf. They are not the family members of plaintiff and defendants. Since the proposed defendants are not belongs to the family of plaintiff and defendants, the question of proposed defendants having right and share in the suit schedule properties does not arise at all and they are not necessary parties to the said suit, hence, the question of impleading the proposed defendants as a parties to the suit does not arise at all. The plaintiff is fully aware that the proposed defendants are not belonged to their family, despite of this fact, she has filed the said application only to delay and to drag on the proceeding and to have wrongful gain. Hence, the application itself is not maintainable and same is liable



to be dismissed. The contents of the affidavits are all false and self created by the plaintiff in order to file this false application. Accordingly, sought to dismiss the same.

3. Heard on both sides.

4. The Points arise for my consideration is as follows;

1. Whether the presence of the opponents is just and necessary to decide the controversy between the parties?

2. What order?

5. My answer on the above points are as follows:-

Point No.1 - In the Negative;

Point No.2 - As per final order for the following:-

REASONS

6. **Point No.1:** The present suit is one for the relief of partition and separate possession, wherein the plaintiff has claimed 1/6th share over the suit schedule properties. This application is filed seeking to implead



the proposed defendants No.9 and 10 by contending that they have entered into an agreement of sale with the 1st defendant in order to purchase the disputed properties on hand. It is claimed that the 1st defendant has no independent right to execute any sought of sale agreement and moreso there is no legal necessity. The proposed defendants No.9 and 10 in their objections have disclosed that since the 1st defendant is not in a position to personally conduct agricultural operation he has engaged them to hold cultivation in the disputed properties. The plaintiff even though contended that there is a sale agreement in existence between the 1st defendant and proposed defendants No.9 and 10 with respect to the disputed properties, but no iota of document is produced that effect. Therefore, the contention of the plaintiff is not supported by any documentary evidence and on that score this application is liable to be dismissed. Accordingly, the point under consideration is answered in the **Negative**.

7. Point No.2: In view of the above findings on point No.1, the following;



ORDER

I.A.No.X filed by the
plaintiff, under Order I Rule
10(2) R/w Sec.151 of CPC
dismissed with costs of
Rs.1,000/-.

(Dictated to the Stenographer on computer, corrected, initialed and then pronounced by me in
open Court on this the 12th day of December, 2025)

Sd/-

(IRFAN)
Senior Civil Judge,
Kadur.