

KACM200002222016



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 17th day of October - 2025

F.D.P. No. 4/2016

Petitioners : Sri. Basavaraj,
Dead by his LR's and another.
(By: Sri. M.N., Advocate)

-V/s-

Respondents : Sri. E. Nagaraja
Dead by his LR's & others.
(Respondents No.1(a) to (c) and respondent No.5(b)
by: Sri. S.N.A., Advocate).

(Respondent No.2 by: Sri. V.K.K., Advocate).

(Respondent No.3 by: Sri. P.R.C., Advocate).

(Respondent No.4 by: Sri. M.M., Advocate).

(Respondents No.5(a), (c) and (d) and respondent No.7
by Smt. M.K.M., Advocate).

(Respondent No.6 - Exparte).



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

Applicants/

Petitioners: Sri. Basavaraj,
Dead by his LR's and another.

V/s

Opponents/

Respondents: Sri. E. Nagaraja
Dead by his LR's & others.

Proposed respondent

under IA No.I: Sri. Damodhar K. Patel,
S/o Late K.h. Patel,
Aged about 64 years,
Business,
R/o Beside U.B. Road,
Kadur Town, Kadur Taluk.

(Proposed respondent No.8 by: Sri. K.N.B., Advocate).

<i>i</i>	<i>Provision under which the applications are filed</i>	<i>U/O I Rule 10(2) R/w Sec.151 of CPC.</i>
<i>ii</i>	<i>Relief sought for</i>	<i>Implead the proposed respondent as respondent No.8.</i>
<i>iii</i>	<i>The date on which the application is filed</i>	<i>06.06.2016 by the petitioners.</i>
<i>iv</i>	<i>Number of the application</i>	<i>I</i>
<i>v</i>	<i>The date on which the objection is filed by different opponent</i>	<i>---</i>
<i>vi</i>	<i>The date on which the orders were passed on the said application</i>	<i>17.10.2025.</i>



When the case is posted for issuance of notice to the respondents, the petitioners have filed IA No.I

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

Applicants/

Petitioners: Sri. Basavaraj,
Dead by his LR's and another.

V/s

Opponents/

Respondents: Sri. E. Nagaraja
Dead by his LR's & others.

Proposed respondent-9

under IA No.VI: Smt. Arunakshi C,
W/o Kumara Naik S,
Aged about 49 years,
R/at Gandhinagara,
Yemmadoddi Dhakle,
Chikkangala Post,
Birur Hobli, Kadur Taluk,
Chikkamagaluru.

(Proposed respondent No.9 by: Sri. K.N.R.K. /
Sri. K.R.U., Advocates).

<i>i</i>	<i>Provision under which the applications are filed</i>	<i>U/O I Rule 10(2) R/w Sec.151 of CPC.</i>
<i>ii</i>	<i>Relief sought for</i>	<i>Implead the proposed respondent as respondent No.9.</i>
<i>iii</i>	<i>The date on which the application is filed</i>	<i>14.06.2022 by the 4th respondent.</i>
<i>iv</i>	<i>Number of the application</i>	<i>VI</i>



v	<i>The date on which the objections is filed by different opponent</i>	<i>09.09.2025 by the proposed respondent</i>
vi	<i>The date on which the orders were passed on the said application</i>	<i>17.10.2025.</i>

When the case is posted for await orders, the 4th respondent has filed IA No.VI.

COMMON ORDERS ON I.A.I AND VI.

The IA No.I has been filed by the petitioners, U/O I Rule 10(2) R/w Sec.151 of CPC seeking to implead the opponent to this IA as respondent No.8, in the interest of justice and equity.

The IA No.VI has been filed by the 4th respondent, U/O I Rule 10(2) R/w Sec.151 of CPC seeking to implead the opponent to this IA as respondent No.9, in the interest of justice and equity.

2. The IA No.I is accompanied by an affidavit filed by the petitioner No.1 for himself and also on behalf of 2nd petitioner. The gist of the application averment is that the 2nd respondent has no exclusive right or interest over the petition schedule property and the said property is seized by the preliminary decree passed in OS No.157/2001. Despite of this fact, the 2nd respondent without any right or interest and without their knowledge and consent sold the item No.7 of the



petition schedule property in favour of proposed respondent through a registered sale deed dated 08.07.2010 and the said fact came to their knowledge recently. Hence, the proposed respondent is a necessary party to the petition. If the application is not allowed, they will lose their share in the said property. Accordingly, sought to allow the IA No.1.

The IA No.VI is accompanied by an affidavit filed by the 4th respondent. The gist of the application averment is that the 8th respondent (Proposed respondent under IA No.I i.e., Damodhar K) sold the item No.7 of the petition schedule property in favour of proposed respondent No.9. After purchasing, the proposed respondent No.9 dug the foundation and trying to put-up concrete columns to put-up building. The item No.7 of the petition schedule property is a very valuable property and they have got equal share in the same. If the proposed respondent is allowed to proceed with the constructions, then she may claim the equity and proceed to put blame on them as there is a laches on their part. Hence, it is just and necessary to implead her as proposed respondent No.9 in the petition. Hence, prays to allow the IA No.VI.



3. Though the notice of IA No.I was served personally upon the proposed respondent No.8 and he had appeared through his counsel, but had not opted to file any objections to IA No.I.

4. After service of notice on IA No.VI, the proposed respondent No.9 appeared through her counsel and filed objections, wherein, it is admitted that under a registered sale deed dated 08.07.2010 the proposed respondent No.8 has purchased the suit schedule item No.7 property, but claims that same was the self acquired property of 2nd respondent and under his exclusive rights he has executed the sale deed in favour of proposed respondent No.8. It is also admitted that under a registered sale deed dated 23.11.2020, proposed respondent No.9 has purchased the same and claims to be her absolute property and thereby, it is sought to reject the application by asserting that the proposed respondent No.9 is not proper or necessary party to the present proceedings on hand.

5. Heard both side on both applications. Perused the case records.

6. The following points that arise for consideration are;



1. Whether the proposed respondents No.8 and 9 are proper and necessary parties for the effective determination of controversy between the parties?

2. What order?

7. Answers to the above points are as under;

Point No.1 : In the Affirmative;

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

REASONS

8. **Point No.1** :- It is a matter of record that the present final decree proceedings have been initiated based on the judgment and preliminary decree in OS No.157/2001, dated 22.12.2005, wherein, the plaintiff as well as defendants No.1 to 8 have been allotted with 1/9th share each in the suit 'A' schedule properties mentioned therein, which are the petition schedule properties herein. Undisputedly, the petition schedule item No.7 property was also a subject-matter of the preliminary decree, wherein respective parties to the



suit have been allotted with specific 1/9th share each along with other suit schedule properties.

9. It is the contentions of the applicant under IA No.I that in-spite of preliminary decree, the 2nd respondent had executed a registered sale deed dated 08.07.2010 in favour of proposed respondent No.8 and the applicant on IA No.VI contends that the said proposed respondent No.8 under a registered sale deed dated 23.11.2020 had sold the petition schedule item No.7 property in favour of proposed respondent No.9. The applicant on IA No.VI has also produced the duly certified copy of the sale deed dated 23.11.2020, the recitals of which renders crystal clear that the petition schedule item No.7 property has been sold by the proposed respondent No.8 in favour of proposed respondent No.9. Since there is a preliminary decree under OS No.157/2001 is operating which has reached its finality, wherein, all the parties to the said suit have got equal right, the 2nd respondent cannot execute his independent right to execute the sale deed. Undoubtedly, the aforesaid sale transactions under sale deed dated 08.07.2010 and 23.11.2020 are taken place subsequent to the passing of preliminary decree and during the pendency of this final decree proceedings.



The applicant on IA No.VI has also produced several documents, which are demonstrative of the fact that the proposed respondent No.9 after purchase has proceeded with construction in the suit schedule item No.7 property. Thus, in consideration of all the aforesaid aspects, the proposed respondents No.8 and 9 are considered to be proper and necessary parties for the effective adjudication of this final decree proceedings. Accordingly, the **point No.1 under consideration is answered in the Affirmative.**

10. **Point No.2** :- In view of the discussion in the foregoing point, the following;

ORDER

I.A.I filed by the petitioner,
U/O I Rule 10(2) R/w
Sec.151 of CPC is allowed.

IA No.VI filed by the 4th
respondent, U/O I Rule 10(2)
R/w Sec.151 of CPC is
allowed.

The opponents to IA No.I
and VI are directed to be
impleaded as respondents
No.8 and 9 respectively.



The petitioners are directed to carry out necessary amendment in the petition accordingly.

(Dictated to the Stenographer on computer, corrected, initialed and then pronounced by me in open Court on this the 15th day of October, 2025)

Sd/-
(IRFAN)
Senior Civil Judge,
Kadur.