

KACM200004552021



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 19th day of April - 2025

O.S.No.158/2021

Plaintiff:- Sri. Lokeshappa E.
(By: Sri M.O.J., Advocate)

V/s

Defendants:- Sri. Manjunatha
S/o Late Krishnappa & others.

(Defendants No.1 to 9 by: Sri. H.N.R. Advocate)

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

Applicants: 1. Sri. Manjunatha,
S/o Kariyamma & Ramappa,
Aged about 39 years,
Agriculturist,

R/o Udeva Village at & Post,
Lingadahalli Hobli,
Tarikere Taluk.

2. Sri. Ranganatha,
S/o Late Lakshmiddevamma
and Sannappa,
Aged about 40 years,
Agriculturist,
3. Sri. Somashekar,
S/o Late Lakshmiddevamma
and Sannappa,
Aged about 39 years,
Agriculturist,

Applicants No.2 and 3 are
R/at Guddadahalli Village,
Ajampura Hobli,
Tarikere Taluk.

4. Smt. Parvathamma,
W/o Chandrappa,
D/o Krishnappa,
Aged about 60 years,
Housewife,
R/o Udeva Village,
Lingadahalli Hobli,
Tarikere Taluk.
Chikkamagaluru.

(By: Sri. T.G.,, Advocate)

V/s

Opponent/
Plaintiff

:

Sri. Lokeshappa E.

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 additional defendants.</i>
iii	<i>The date on which the application is filed</i>	<i>21.08.2024.</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>05.11.2024.</i>
vi	<i>The date on which the orders were passed on the said application</i>	<i>19.04.2025.</i>

When the case is posted for hear on IA No.IX, the applicants have filed this application.

ORDERS ON I.A. X

This interim application has been filed by the applicants under Order I Rule 10(2) R/w Sec.151 of C.P.C., seeking to implead them as additional defendants for the effective of adjudication of the suit on hand.

2. This application is accompanied by an affidavit filed by the 1st applicant. The gist of the application averments is that the plaintiff has filed the said suit against the defendants for the relief of specific performance of contract based on the agreement of sale dated 22.11.2018. One Krishnappa is the kartha of family of themselves, plaintiffs and also defendants

No.1 to 9. The said Krishnappa had got two wives namely Rangamma and Hanumanthamma. They and defendants No.1 and 2 are the members of Hindu undivided joint family and the suit schedule properties are the ancestral and joint family properties of themselves and the defendants No.1 and 2. There is no division amongst themselves and the defendants No.1 and 2 and they are in joint possession and enjoyment over the suit schedule properties. After the death of Krishnappa, the defendants No.1 and 2 by misleading the revenue authorities and by suppressing their living, have got changed the katha of the suit schedule properties into their names and the katha of the said properties stands in their joint names, but they have no exclusive right or interest over the suit schedule properties. Despite of this facts, the defendants No.1 to 9 colluded with each other have entered into agreement of sale of the suit schedule properties with the plaintiff through the registered agreement of sale dated 22.11.2018 without the knowledge and consent of the plaintiff. The defendants No.1 to 9 have no exclusive right to sell the said properties. The said sale agreement is not binding on them. Despite of these facts, the plaintiff and the defendants colluded with

each other, managed to file the present suit in order to deceive and defraud them. They have filed the suit in OS No.109/2024 against the defendants No.1 to 9 and also against the plaintiff for the relief of declaration, partition and separate possession before this court and same was pending. The plaintiff and the defendants collude with each other in order to deceive and defraud them, they are going to compromise the said suit without our knowledge. Accordingly, sought to allow the application.

3. The plaintiff resisted the application by contending that the application filed by the applicant is not maintainable either in law or on facts. The applicants have sworn to the false affidavit by suppressing the material facts. The applicants are in noway concerned to the suit schedule property or to the suit matter and they have created the false relationship by creating the false and concocted documents in collusion with the defendants and filed this false application by misusing the process of law and to drag on the proceedings. The present suit is one for the relief of specific performance of contract, hence the question of impleading the applicants does not arise at all. The defendants No.1 to 9 are the absolute owners of the

suit schedule property and they have executed the sale agreement in favour of plaintiff and failed to perform their part of contract, hence, the plaintiff has filed this suit. After filing the said suit, the defendants instigated the proposed defendants and managed to file this application by misusing the process of law in order to harass the plaintiff and to have wrongful gain. The contents of the affidavit are all self created by the applicants in order to file this false and frivolous application only to delay and to drag on the proceedings.

4. Heard on both sides.

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

1. Whether the applicants are proper and necessary party for the effective adjudication of the suit on hand?

2. What order?

6. 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

7. **Point No.1:** The present suit is for the relief of specific performance of contract based on the sale agreement dated 22.11.2018. As per the plaint averments, the defendants No.1 to 10 being the lawful owners of the suit schedule properties have executed the aforesaid sale agreement and since they have failed to comply the obligations cast upon them under the said sale agreement, the instant suit seeking for specific performance of contract has been filed. On the other hand, the defendants No.2 to 5 have filed their written statement, wherein they did not deny the contention of the plaintiff that they are the absolute owners of the suit schedule properties, but have taken a specific defence that the alleged document in question has been executed towards security for loan.

8. Under the present application, the applicants claims themselves to be the joint family members along with defendants No.1 to 10 and by contending that the suit schedule properties are their ancestral and joint family properties, have sought to implead themselves by contending that the plaintiff and defendants in collusion with each other are illegally trying to enter

into a compromise behind their back for unlawful gain and if the parties to the suit proceeds to do so, same would cause irreparable loss injury to the lawful rights of the applicants over the suit schedule properties.

9. Admittedly, there is no privity of contract between the plaintiff and the applicants herein with respect to the suit schedule properties. Moreso, as it is disclosed in the application itself, the applicants have already initiated suitable proceedings against the parties to the suit seeking for appropriate reliefs with respect to the suit schedule properties and under such circumstances, the applicants can very well work-out their remedies in the aforesaid suit proceedings and in consideration of fact that there is no privity of contract, the applicants are not the proper and necessary parties for the effective adjudication of the suit on hand. Hence, there is no merits in the application on hand and the same is liable to be dismissed. **Accordingly, the point under consideration is answered in the Negative.**

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

ORDER

I.A.No.X filed by the applicants, under Order 1 Rule 10(2) R/w Sec.151 of CPC is dismissed.

No order as to costs.

(Dictated to the Stenographer on computer, corrected, initialed and then pronounced by me in open Court on this the 19th day of April, 2025)

Sd/-

(IRFAN)
Senior Civil Judge,
Kadur.