

ORDERS ON IA No.IX

The plaintiffs have filed an application U/O I Rule 10(2) R/w Sec.151 of CPC, for impleading the proposed defendants as defendant Nos.8 to 10 in the ends of Justice and equity.

2. In the affidavit accompanying to the application, the plaintiff has stated that, the present suit is filed against the defendant for the relief of declaration, partition and separate possession. At the time of filing the suit the applicant father forgot to implead his sisters as defendant No.8 to 10. They have equal right in the present suit. The proposed defendants are necessary parties for the present suit and it is just and necessary to implead them in the present suit as defendant Nos.8 to 10. In order to proper adjudication of the matter in dispute the proposed defendants are proper and necessary parties to this case. If the application is allowed no prejudice or hardship would be caused to the proposed

defendant and on the other hand irreparable loss would be caused to the plaintiffs if not allowed. Hence, prays to allow the application.

3. After service of the notice to the proposed defendants, they did not appear before this court to file any objection.

4. Heard the arguments from both side.

5. The points that would arise for my consideration is as follows:-

1. Whether the IA.No.IX filed by the plaintiffs U/o 1 Rule 10(2) R/w Sec.151 of CPC deserves to be allowed ?

2. What order ?

6. My answer to the above points are as follows :-

Point Nos.1 : In the **Affirmative.**

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

REASONS

7. **Point No.1** :- The plaintiffs have filed the present suit against the defendants for the relief of Partition and Separate possession in respect of the suit schedule properties.

8. It is pertinent to note that, in the application the plaintiffs have specifically stated that, the proposed defendant Nos.8 to 10 are the sisters of the father of applicant and they are the necessary parties to the present suit. If they are not impleaded it will be difficult to decide the case. The proposed defendants has direct interest in the subject matter of the suit. The presence of the proposed defendant would be necessary to decide the controversies raised in the present suit. The plaintiff has filed this suit for the relief of partition and claiming right over the suit schedule property.

9. The provision of Order 1 Rule 10(2) of CPC, clearly conferred the power to

the court to strike out the name of the party improperly joined whether as plaintiff or defendant and also when the name of any person ought to have been joined as plaintiff or defendant or in a case where a person whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all the questions involved in the suit. In the present case, the presence of the proposed defendant is necessary to the court for effectually and completely to adjudicate upon and settle all the questions involved in the suit. The proposed defendants even after service of notice not appeared before the court. If the application is not allowed it will cause irreparable loss to the plaintiffs and also it will create multiplicity of proceedings. The plaintiffs have made out genuine ground to allow the application. In the touch stone of aforesaid discussion, I answer **Point No.1 in the Affirmative.**

10. Point No.2 :- For the reasons stated above, I proceed to pass following;

ORDER

The I.A. No.IX filed by the plaintiff under order 1 Rule 10(2) R/w Sec.151 of C.P.C. is hereby allowed.

The plaintiff is permitted to implead the proposed defendants as defendants Nos.8 to 10.

To carry out amendment and to furnish amended plaint.

Issue suit summons to the proposed defendants if steps taken. Call on 22.02.2024.

Sd/-
(Smt. Amrin Sultana)
I Addl. Civil Judge and
JMFC., Kadur.