

KACM210033582022



**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE &
JMFC, KADURU.**

**Present: Smt. Nalina S.C., B.A.,LL.B.
Prl. Civil Judge & JMFC, Kaduru.**

Dated: This the 6th day of July 2026

O.S. No:441 / 2022

Plaintiff : Dhiraj

V/s

Defendants : Smt.Drakashayani and others

I.A. No.IX

APPLICANT : Dhiraj

-V/s-

OPPONENTS/ : Smt.Drakashayani and others.

**ORDERS ON IA NO.IX UNDER ORDER 1 RULE 10 (2) of
C.P.C.**

The Applicant has filed this IA No.IX under order 1 Rule 10(2) of CPC with a prayer to implead the proposed defendants as defendant in this suit in the interest of justice and equity.



2. The plaintiff has filed suit against the defendants for relief of declaration and partition and separate possession. The father of the plaintiff sold the the properties bearing No.456/P infavour of the proposed defendants. It is further contended that, the alleged property is involved the legitimate share of him. As such, it is necessary to implead them in the suit which are necessary parties to adjudication and among these grounds, prays for the IA to be allowed.

3. The proposed defendants have filed his objections to the present IA and contended that the plaintiff and defendants are not the joint family members and the father of the plaintiff sold the property for the benefit of family necessity as such the plaintiff has no right to question the alleged sale transaction, hence sought of reject the application.

4. Heard. Perused the material on record.

5. The points that arise for my consideration are:



1. Whether the application filed by the plaintiff under order 1 rule 10(2) is deserve to be allowed?
2. What order?

6. My answer to the above points is as under:

Point No.1 - In the Affirmative

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

REASONS

7. Point No.1: The plaintiff filed the present application for impleading the proposed defendants as a party to the suit. As per plaintiff contention, The father of the plaintiff sold the the properties bearing No.456/P infavour of the proposed defendants. As such, the proposed defendants are necessary parties and without impleading them, court cannot passed an effective decree.



8. Before considering the present IA, court has intended to discuss about the provision order 1 Rule 10 (2) of CPC.

Order **1 Rule 10(2)** deals that,

“The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name, of any person who ought to have been joined, whether as plaintiff or defendant, or 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, be added.”

As per above provision order 1 Rule 10 (2) comes two types of case

(a) of a party who ought to have been joined but not joined and is a necessary party, and (b) of a party without whose



presence the question involved in the case cannot be completely and effectively decided.

9. Any party seeking impleading on necessary or proper party, he has to prima-facie establish his interest in the subject matter.

10. In the present suit, the plaintiff has filed the present suit for declaration and partition and separate possession over the suit schedule properties and also contended that, the father of the plaintiff sold the the properties bearing No.456/P infavour of the proposed defendants. The matter of suit of partition between the family members i.e. plaintiff and defendants. To decided the division of the suit schedule properties and to allot the share, the proposed defendants are not a necessary parties. But it is admitted fact that the proposed property purchased by the proposed defendants and



the right and interest of the proposed defendants are involved in the proposed property. As such if the proposed property decide the right and share of the parties and allot their shares, the proposed defendants will help to assist the court that which portion has to give priority to the purchaser i.e. which is already sold to them.

11. As such, though they are not a necessary parties, but they are definitely proper party to the suit. As already discussed above, the proposed defendants are proper parties in the suit and requiring to implead them for proper conclusion of the suit. Considering the above answer the **Point No.1 Affirmative.**

12. Point No.2: For above said reasons of point No.1 following order:-



ORDER

The applicant has filed I.A.No.IX under Order 1 Rule 10(2) R/w/s 151 of C.P.C. is hereby allowed with cost of Rs.500/-.

(Dictated to the Stenographer directly on the computer typed by him, corrected and pronounced by me in the open court on this the 6th day of July 2026).

**-sd-
Prl. Civil Judge & JMFC,
Kaduru.**