



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND JMFC AT  
MUDIGERE**

**: PRESENT :**

**SRI. JAYAPRAKASH V. B.A., LL.B.,  
SENIOR CIVIL JUDGE & JMFC,  
MUDIGERE.**

**O.S. 78/2023**

**DATED THIS THE 09<sup>th</sup> DAY OF APRIL 2025**

Plaintiff : Niranjana @ Parshwanatha,  
S/o Shanthiraja Shetty,  
Aged about 68 years  
R/o. Basrikal, Samse Village and Post,  
Kalasa Hobli and Taluk,  
Chikkamagaluru District.  
[By Sri K.S.A., Advocate]

**V/s.**

DEFENDANT: Sri. Daranappa,  
S/o. Late. Kariyappa,  
aged about 51 years,  
Coolie, R/o. Basrikal,  
Samse Village and Post,  
Kalasa Hobli and Taluk,  
Chikkamagaluru District.  
[By Sri B.T.N., Advocate]



PARTIES IN I.A.No.V

Applicant : Sri. Niranjana @ Parshwanatha

V/s

OPPONENT : Sri. Daranappa

ORDER ON I.A.NO.V

The plaintiff has filed application for implead for proposed plaintiffs in the suit. The said application is supported by an affidavit sworn by plaintiff.

2. On the other hand defendant filed objection to the IA No.V and prays to dismiss the application.

3. Heard on IA No.V by both side. Perused the materials on record.

4. Now the point that arises for my considerations are:

- (1) Whether plaintiff has made out grounds to allow the application filed under order 1 Rule 10(2) of CPC?



(2) What order?

5. My findings to the above points is as follows:

Point No.1: In the Affirmative

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

### R E A S O N S

#### POINT NO.1:

6. The plaintiff has filed the application for implead proposed plaintiffs. In the affidavit annexed to the application plaintiff stated that he has filed the suit for the relief of declaration and permanent injunction with respect to the plaint schedule properties. Plaintiff stated that he was in urgent need of funds to repay loan and to make arrangement for marriage of his son. Hence he along with his son Sri. S.N. Sundaram Shetty has sold and delivered possession of the plaint schedule property to Sri.



Sudarshan and Sri. N.L. Sundaresh under the sale deed registered as document No.1058/2024-25 dated 18.07.2024 for the sale considerations of Rs.25,50,000-00 and possession of the property has been delivered to them. As per the said sale deed khatha of the land are changed in the name of proposed plaintiff. Because of the said purchase they have become the owner in possession of plaint schedule properties. Hence they have got right interest over the plaint schedule property. They are also entitled to recover possession of the encroached area from the defendants. They are interested in the result of the suit. Hence plaintiff prays to implead the purchaser of the plaint schedule properties.

7. On the other hand defendant has filed objection to I.A.No.V. In the objection defendant contended that, the issue in the suit were framed on 01/07/2024 and plaintiff furnished the list of



documents on 01/06/2024. The plaintiffs evidence commenced on 14/06/2024 and continued for eight hearing dates. At this advanced stage of the proceeding filing additional documents is a deliberate after thought and an attempt to fill gaps in plaintiffs case which is legally impermissible and cause prejudice to the defendant. The sale deed executed by plaintiff to Sri. K.A. Sudarshan and Sri. N.L. Sundaresh has no relevance to the present suit. The proposed plaintiff has not filed any affidavit or application seeking their impleadment has required U/O.1 Rule 10 of CPC. Mere reference to a sale deed does not grant them an automatic right to be added as parties in this suit. As per the revenue records and sale deed plaintiff is not the khata holder and does not possess any legal rights over the suit schedule property. Hence any sale transaction executed by plaintiff in favour of the proposed plaintiff is legally invalid and un-enforciable. The plaintiff has no



independent right to introduce the proposed plaintiffs into the suit. Defendant stated that until their application allowed for impleading they have no right to participate in the proceeding or file any documents. The plaintiff and proposed plaintiffs are attempting to influence the court decisions on their pending application for impleadment, which is procedurally impermissible. Hence, defendant prays to reject the application.

8. The defendant also filed objection to the memo with document filed by the plaintiff and prays to reject the memo.

9. On perusal of the record it reveals that the plaintiff has filed the suit for declaration that plaintiff is the owner of the 'A' schedule properties and for the relief of possession of plaintiff 'B' schedule property. Plaintiff also sought for the relief of permanent injunction against defendant. The plaintiff stated that



he has sold the suit schedule property to the proposed plaintiffs for his urgent need of funds to repay the loan and to make arrangement of marriage of his son. Now plaintiff filed the application to implead the proposed plaintiffs. Since the plaintiff has sold the property to proposed plaintiffs, impleading them is very much necessary to prosecute the case. In order to adjudicate the matter and determine the rights of the parties the proposed plaintiffs are very much necessary party to the suit to decide the matter in controversy. Hence the proposed plaintiffs are very much necessary to enable the court effectively and completely to adjudicate the matter in dispute. If the application is allowed no hardship will be caused to defendant. The presence of proposed plaintiff is very much necessary in order to enable the court effectually and completely to adjudicate upon and settle all the questions involved in the suit. In view of my above discussion I answer point No.1 in the Affirmative.



10. **Point No. 2:** In view of my findings on point No.1 I proceed to pass the following:

**ORDER**

I.A.No.V filed by the plaintiff to implead the proposed plaintiff No.2 and 3 is hereby allowed.

The proposed plaintiff No.2 and 3 are order to be implead in the suit.

The plaintiff is directed to amend the plaint and to furnish amended plaint.

**Call on 21.04.2025.**

(Dictated to the Typist directly on computed, typed by her, corrected by me and pronounced in open court on this the 09<sup>th</sup> day of April 2025)

**(JAYAPRAKASH V.)  
SENIOR CIVIL JUDGE AND JMFC.,  
MUDIGERE.**

Mk/-