

**IN THE COURT OF THE SENIOR CIVIL JUDGE AND
PRINCIPAL J.M.F.C., TARIKERE**

PRESENT : SRI VAIDYA SHREEKANT, *B.Sc, LL.B.*
*Senior Civil Judge & Prl. J.M.F.C.,
Tarikere. .*

(Name of the Presiding Judge)

DATED : THE 18th DAY OF OCTOBER 2025

FDP No.13/2022

**ORDER ON IA NO.IV FILED UNDER ORDER 1
RULE 10 OF CPC**

The present application has been filed by third party applicant namely Smt. R.Chandramma W/o Basappa praying to implead her as respondent No.8 in the petition.

2. In the affidavit annexed to the application, the third party applicant deposed that she has purchased the petition item No.6 property bearing Sy.No.47/1B measuring to the extent of 1 Acre 11 Guntas situated at Muguli village. She came into possession of the same based on the registered sale deed and has been enjoying the same. But katha of the said property is not changed in her name based on the sale deed. The katha was earlier in the name of vendor i.e., father of the petitioner namely Sidramanna and after his death

the property was mutated in the name of petitioner herein.

3. By taking undue advantage of the katha and by suppressing the sale of the property, the petitioner included the property sold in favour of the third party applicant in the original suit without arraying the purchaser as party to the proceedings. The instant petition is also filed in the absence of third party applicant. Though she is in possession of the property, the court commissioner also did not issue any notice to her prior to execution of commissioner warrant. Filing of instant final decree proceedings came to her notice very recently. She being the purchaser is necessary party to the petition etc.

4. The application came to be objected by the petitioner. He contended that the application of the third party applicant is not maintainable either in law or on facts. It is contended that as on the date of sale deed, the property was standing in the name of petitioner herein, hence question of execution of the sale deed by his father does not arise. The third party applicant has created the sale deed and filed false application. If at all she has any claim over the property, she has to file separate suit seeking declaration of her

title. She cannot maintain application in the present proceedings. Hence, application itself is not maintainable and liable to be rejected.

5. Heard the counsel for third party applicant and counsel for the petitioner on application.

6. The following points arise for my consideration:

1. Whether the third party applicant establish that she is necessary party to the petition?

2. What order?

7. My answers to the above points are hereunder:

Point No.1: In the Affirmative

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

REASONS

8. **POINT No.1:** Admittedly, the present applicant was not party to the original suit and she is not party to the present final decree proceedings as well. She is claiming to be the purchaser of land Sy.No.47/1B measuring to the extent of 1 Acre 11 Guntas situated at Muguli village of Ajjampura Taluk (then Tarikere Taluk). She has produced copy of the sale deed along with encumbrance certificate. The said documents clearly show that the third party applicant has

purchased the land Sy.No.47/1B measuring to the extent of 1 Acre 11 Guntas for Rs.500/- as on 05.05.1973 through registered sale deed referred above.

9. In fact, in the petition and the preliminary decree, the item No.6 property is shown as survey No.47/1 but in the sale deed and encumbrance certificate survey number is shown as 47/1B. However, the location of the property and it's measurement are in tally. Furthermore, it is not the case of the petitioner that both those properties are different.

10. The petitioner herein specifically stated that as on the date of sale deed, the property was standing in his name, hence question of executing the sale deed by his father does not arise. But, he failed to produce any documents which would show that as on date of the sale deed the property was standing in his name. Even otherwise, it is not proper stage to go in detail with regard to all those aspects. The material made available on record prima-facie would establish that the third party applicant is the purchaser of petition schedule item No.6 property.

11. Admittedly, the present petition is filed praying to draw final decree in terms of preliminary decree

passed in the original suit. The commissioner appointed by this court already demarcated the properties and filed his report by suggesting the scheme of partition. Under such circumstances, if the commissioner report is accepted and the property is allotted to the share of the petitioner and others, the third party applicant definitely would put to irreparable loss and injury. She being the purchaser is entitled to come on record to protect her interest over the property alleged to be purchased by her. Hence, I am of the opinion that the third party applicant has made out reasonable grounds to come on record as respondent No.8 in the present final decree proceedings.

Accordingly, I answer point No.1 in Affirmative.

12. **Point No.2:** For the reasons stated above, I proceed to pass the following:

ORDER

The application filed by the third party applicant under Order I Rule 10 of CPC at IA No.IV is hereby allowed.

The petitioner is directed to implead, the third party applicant as regular respondent No.8 to the proceedings.

To carry out amendment and to
furnish amended petition.

Sd/-
SENIOR CIVIL JUDGE & JMFC.,
TARIKERE.