

**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 15th DAY OF OCTOBER 2025

OS No.214/2025

ORDER ON IA NO.I

The present application has been filed by third party applicants by name B.M. Siddaramamma, Shivakumar and Geetha praying to implead them as defendants No.2 to 4 in the suit.

2. In the affidavit annexed to the application, the 2nd applicant deposed that the applicant No.1 and 3 are his sisters and they authorized him to file this affidavit. The plaintiff filed this suit against the sole defendant seeking the relief of partition and separate possession. He himself and other applicants are the joint family member along with the regular defendants and suit schedule properties are ancestral joint family properties. The applicants have got definite share in the suit schedule properties. In order to protect their rights over the properties, the applicants want to come on

record as regular defendants. If application is allowed, no harm or prejudice would cause to the other side etc.

3. The application came to be objected by the plaintiff. He contended that application filed by the third party applicants is not maintainable either in law or on facts. He not disputing relationship of regular defendant and third party applicants as third party applicants are children of regular defendant. The suit schedule properties are the properties of father of defendant namely Siddaramappa i.e., grandfather of the proposed defendants. He had 2 daughters and a son, the regular defendant herein. The elder daughter of Siddaramappa by name Smt. Mallamma died issueless. Another daughter namely Parvathamma who happens to be younger sister of defendant is mother of the plaintiff.

4. The suit schedule properties are properties of Hindu Undivided Joint Family properties of late Siddaramappa, grandfather of proposed defendants. The mother of the plaintiff Parvathamma is entitled to get half share in the suit schedule properties. The plaintiff herein is claiming the share of his mother. Therefore, the proposed defendants are not joint family members of late Siddaramappa but they are the joint

family members of their father Mallappa. Hence, the proposed defendants are entitled to get share in the half share of their father Mallappa, the regular defendant herein. Hence, they are not necessary parties to the suit.

5. Heard the counsel for third party applicants and counsel for the plaintiff on application.

6. The following points arise for my consideration:

1. Whether the third party applicants establish that they are necessary parties to the suit?

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 relationship between the plaintiff, regular defendant and the third party applicants is not in dispute. The plaintiff No.1 is the son of one of the sister of regular defendant. The third party applicants herein are the children of regular defendant. According to third party applicants, the suit schedule properties are ancestral joint family

properties, they have specific share in the same. They want to come on record in order to protect their interest over the suit schedule properties.

9. Per contra, according to plaintiff No.1, the regular defendant is having half share over the suit schedule properties. If at all, the third party applicants have any right, they are entitled to get their share in the property belonged to their father. They are not joint family members along with the plaintiff No.1.

10. I have gone through the allegations of the plaintiff. In para No.3 of the plaintiff, the plaintiff No.1 specifically stated that the suit schedule properties are the properties of Hindu Undivided Joint Family of late Siddaramappa. Admittedly, Siddaramappa is the father of regular defendant and grandfather of third party applicants. According to them, the suit schedule properties is ancestral in character.

11. As discussed above, the relationship between the parties is not disputed. The suit is filed seeking the relief of partition and separate possession. The plaintiff No.1 is also not disputing that the suit schedule properties are joint family properties. However, it is not proper stage to go in detail as to whether the suit schedule properties are joint family properties or they

are ancestral in character. If, the properties proved to be ancestral in character, the present third party applicants would have birth right over the same. Hence, their application cannot be considered lightly.

12. Another important aspect to be considered here is that initially the plaintiff No.1 alone filed the suit against the sole defendant and subsequently he got impleaded plaintiff No.2 to 7 as party to the proceedings. Prior to service of the summons, the plaintiff No.1 and regular defendant made some efforts to get settle the dispute before the Lok-Adalath. Subsequently, the plaintiff No.2 to 7 are impleaded in the suit alleging that they are also children of deceased Parvathamma and siblings of plaintiff No.1. I could not understand what the urgency was to the plaintiff No.1 and regular defendant to get settle the dispute that too prior to service of the summons.

13. However, as discussed above, the third party applicants are none other than children of regular defendant. According to them, they want to come on record to protect their interest in the suit schedule properties. Hence, I am of the opinion that opportunity has to be given to the third party applicants to come on record as regular defendants and to put-forth their claim to meet the ends of the justice. Therefore, I opine

that the application filed by the third party applicants deserves to be allowed and the compromise petition filed by plaintiffs and regular defendant is fit to be rejected. **Accordingly, I answer point No.1 in Affirmative.**

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

ORDER

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

The plaintiffs are directed to implead, the third party applicants as regular defendants in the suit.

Resultantly, the compromise petition filed by the plaintiffs and regular defendant is hereby rejected.

To carry out amendment and to furnish amended plaint.

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

