



IN THE COURT OF PRL. CIVIL JUDGE AND J.M.F.C, TARIKERE

PRESENT: Sri. Rahul Shettigar, B.Com (Hons.), LL.B
Prl. Civil Judge & J.M.F.C, Tarikere

DATED THIS THE 17th DAY OF DECEMBER, 2025

ORIGINAL SUIT No. 29/2024

BETWEEN:

Smt. G.T. Sarojamma and
 another

PLAINTIFFS

-AND-

Sri. Purushothamachar and
 others

DEFENDANTS

IN I.A.NO.II

Sri. Vijay.K

APPLICANT/ PLAINTIFF
No.2

-AND-

4. Smt. Manjulamma
 5. Sri. Nagaraja
 6. Nataraja
 7. Sri. Kotesachar

OPPONENTS/ PROPOSED
DEFENDANT No.4 to 7

PARTICULARS

i	<i>Provision under which the application is filed</i>	<i>Under Order I Rule 10 r/w Section 151 CPC</i>
ii	<i>Relief sought for</i>	<i>To implead proposed Defendants in the suit</i>
iii	<i>The date on which the application is filed</i>	<i>09.01.2025</i>
iv	<i>Number of the application</i>	<i>I.A.No.II</i>
v	<i>The date on which the objections are filed by different opponents</i>	<i>03.09.2025</i>



vi	<i>The date on which the orders were passed on the said application</i>	17.12.2025
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ORDERS ON I.A. NO. II

1. Applicant/ Plaintiff No.2 has filed the instant application under Order I Rule 10 r/w Section 151 of C.P.C with the prayer to permit him to bring on record the proposed Defendants shown in the application as party Defendants, in the present suit.
2. In the affidavit appended to the application, it is stated that the suit is filed for the reliefs of declaration and possession. The family of the Plaintiffs had sold property bearing Sy.No.171/6, measuring 7 guntas, situated at Hunasaghatta Village, in the year 2006 to one Kotesachar, who is proposed as Defendant No.7. Thereafter, they sold another extent of 14 guntas in the same survey number under a registered sale deed to the father of Defendant Nos.1 to 3. Hence, the family of the Plaintiffs sold a total extent of 21 guntas in the suit survey number and retained an extent of 0-26.08 guntas, which constitutes the suit 'A' schedule property. The proposed Defendant Nos.4 to 6 are in possession of the western portion of the land in the suit survey number. Subsequent to the sale of 7 guntas and 14 guntas in favour of Kotesachar and Veerabhadrachar H.K. respectively,



one Rudrachar encroached upon the said 7 guntas of land sold in favour of Kotesachar and also upon 1 gunta of land belonging to the family of the Plaintiffs, which constitutes the suit 'B' schedule property. The said Kotesachar, instead of recovering the land encroached upon, has put up construction on 7 guntas of land belonging to Defendant Nos.1 to 3 by encroaching upon the same. Consequently, Defendant Nos.1 to 3 have encroached upon 7 guntas of land belonging to the Plaintiffs. In such circumstances, all parties who own and are in possession of land in the suit Sy.No.171/6 are necessary parties to the present suit. Hence, the prayer is to allow the application.

- 3.** Resisting the application, the proposed Defendant No.7 has filed objections contending that the application is not maintainable either in law or on facts. The family of the proposed Defendant No.7 purchased 7 guntas of land in the suit survey number in the year 2006, and ever since then, they have been in lawful possession and enjoyment of the said property. The allegation of encroachment made by the Plaintiffs is wholly false. The proposed Defendant No.7 has never constructed any house on the property of any other person. He is in possession of the land



purchased by him and has put up construction only on his own property by following due process of law. As the proposed Defendant No.7 has not committed any unlawful act, the Plaintiffs are unnecessarily seeking to implead him in the present suit. Hence, the prayer is to dismiss the application with costs.

4. The Learned Counsel for other Defendants have submitted no objections to allow the application.
5. Heard both sides.
6. Having heard the rival contentions and on perusal of the materials, the points that would now arise for my consideration are as under -

Point No.1 : Whether the Applicants/ Plaintiffs have made out sufficient grounds to allow the application?

Point No.2 : What Order?

7. Now, my findings on above points are as follows -

Point No.1 : In the Affirmative

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

REASONS

8. **Point No.1:** The instant suit is filed mainly seeking relief of declaration; consequential relief of possession and such other ancillary reliefs.



9. Before advertng to the factual matrix any further, it would be beneficial to reproduce the provision of Rule 10(2) of Order I of C.P.C., which reads thus –

10(2) - Court may strike out or add parties.—*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, andthat 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 involvedin the suit, be added.*

10. A plain reading of the provision would indicate that the Court at any stage of the proceedings can strike out or add parties who ought to have been joined, whether as a Plaintiff or Defendant or whose presence before the Court may be necessary in order to enable the Court effectually and completely adjudicate upon and settle all the questions involved in the suit.
11. The unique position of a Plaintiff in the suit being its *Dominus Litus* requires due notice. *Dominus Litus* is the person to whom the suit belongs to and he alone is the master of the suit. The Doctrine of *Dominus Litus* acts as a general rule with regards to impleadement of parties to the suit and the Plaintiff cannot be



compelled to fight against someone whom he does not wish to fight and against whom he does not claim any relief. Order I Rule 10(2) of CPC acts as an exception to this general rule. It is within the discretion of the Court to add or strike-out someone though against the wishes of the Plaintiff if such party establishes himself to be a proper or necessary party to the suit. The object of provisions of Order I Rule 10(2) appears to be to bring on record all persons who are parties to the subject matter of the suit so that the dispute can be determined in their presence without any protraction, inconvenience and to avoid multiplicity of proceedings.

- 12.** It is well settled by catena of judgments of the Hon'ble Supreme Court of India that a necessary party is one without whom no order can be made effectively and a proper party is one in whose absence an effective order can be made but whose presence is necessary for complete and final decision on the question involved in the proceedings. Hence, the application on hand lies in the narrow compass so as to examine whether the proposed Defendants are either proper or necessary parties to the instant suit.



- 13.** The Applicant, in the affidavit filed in support of the application, contends that the proposed Defendants, who are the earlier purchasers of land from the Plaintiffs in the suit survey number, have wrongfully encroached upon portions of land belonging to one another, ultimately encroaching upon the remaining land of the Plaintiffs, which is the subject matter of the suit. In these circumstances, all the owners and possessors of land in the suit survey number become necessary parties to the suit. Hence, the Applicant has filed the present application, which deserves to be allowed.
- 14.** The proposed Defendant No.7 alone has resisted the application. Though he admits ownership and possession of his portion of land in the suit survey number, he primarily opposes the application on factual grounds. The objections raised by the proposed Defendant No.7 on factual aspects are not relevant for deciding the present application, which is confined to determining whether he is a necessary or proper party to the suit. In view of the admission by the proposed Defendant No.7 regarding ownership and possession of his portion of land in the suit survey number, and in light of the allegation of



encroachment, he clearly becomes a necessary party to the proceedings. The proposed Defendant No.7 is at liberty to challenge the case of the Plaintiffs on factual aspects during the trial. Hence, without pondering much, I answer the **Point No.1** in the ***Affirmative.***

15. Point No.2: For the foregoing reasons, the following -

ORDER

I.A No.II filed by the Applicant/ Plaintiff No.2 under Order I Rule 10 r/w Section 151 of C.P.C is hereby allowed on costs of Rs.500/-.

Resultantly, Plaintiffs are permitted to bring on record the Proposed Defendants as Defendant No.4 to 7 in the suit.

Plaintiffs shall carryout the amendment and furnish the amended plaint on the next date of hearing without fail.

(Dictated to Stenographer, after transcription, print out corrected and then pronounced by me in the Open Court on this the 17th of DECEMBER, 2025)

sd/-

(Rahul Shettigar)
Prl. Civil Judge & J.M.F.C,
Tarikere.