



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

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

DATED THIS THE 2nd DAY OF JUNE 2025

ORIGINAL SUIT No. 65/2016

BETWEEN:

Smt. M.B. Radha @
M.B.Rajamma

PLAINTIFF

-AND-

Sri. B. Shankarappa and others

DEFENDANTS

IN I.A.NO.XXIII

Smt. M.B. Radha @
M.B.Rajamma

APPLICANT/ PLAINTIFF

-AND-

Sri. B. Shankarappa and others

OPPONENTS/ DEFENDANTS

PARTICULARS

<i>i</i>	<i>Provision under which the application is filed</i>	<i>Under Order I Rule 10(2) r/w Section 151 CPC</i>
<i>ii</i>	<i>Relief sought for</i>	<i>To implead proposed Defendants in the suit</i>
<i>iii</i>	<i>The date on which the application is filed</i>	<i>12.03.2024</i>
<i>iv</i>	<i>Number of the application</i>	<i>I.A.No.XXIII</i>
<i>v</i>	<i>The date on which the objections are filed by different opponents</i>	<i>07.02.2025</i>
<i>vi</i>	<i>The date on which the orders were passed on the said application</i>	<i>02.06.2025</i>



ORDERS ON I.A. NO. XXIII

- 1.** Applicant/ Plaintiff has filed the instant application under Order I Rule 10(2) r/w Section 151 of C.P.C with the prayer to permit her 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 some of the joint family properties are currently standing in the names of the Defendants who are now sought to be impleaded. In these circumstances, the proposed Defendants have become necessary parties to the suit. If the application is rejected, the Plaintiff would suffer untold hardship and humiliation. Therefore, the prayer is to allow the application.
- 3.** Resisting the application, the Proposed Defendants No. 6 and 7 have filed objections, contending that the proposed Defendants are not necessary parties to the suit and that the application itself is not maintainable. Therefore, the prayer is to dismiss the application with costs."
- 4.** Proposed Defendants No.8 and 9 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 Applicant/ Plaintiff has 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 partition and separate possession with such other ancillary reliefs that would flow from the main relief.

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, 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.

- 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 impleadment 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 Plaintiff, in the affidavit filed in support of the application, contends that some properties, which were acquired using joint family funds and later sold to third parties, have recently come to her knowledge. These properties now stand in the names of the Proposed Defendants. Since the present suit is one filed seeking the relief of partition, the parties who possess or own joint family properties are necessary parties to the suit. Given that the Plaintiff herself has filed the instant application, it deserves to be allowed without any doubt.



- 14.** In so far as the question of inordinate delay in bringing such application, it is difficult but to not notice that the suit has reached the stage of arguments and at this juncture, the Plaintiff is before the Court with the instant application. The inordinate delay in bringing such application is also not satisfactorily explained. Hence, the application though, would have to be considered positively, it deserves to be met with appropriate costs. 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.XXIII filed by the Applicant/ Plaintiff under Order I Rule 10 r/w Section 151 of C.P.C is hereby allowed on costs of Rs.500/-.

Resultantly, Plaintiff is permitted to bring on record the Proposed Defendants as Defendant No.6 to 9 in the suit.

There shall be consequential amendment to the plaint.

(Dictated to Stenographer, after transcription, print out corrected and then pronounced by me in the Open Court on this the 2nd of JUNE, 2025)

sd/-

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

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