

KACM710009362012



**IN THE COURT OF THE CIVIL JUDGE AND ADDITIONAL
J.M.F.C., AT TARIKERE**

Present: Smt.Urmila.V. B.A.L., LL.B.,
Addl. Civil Judge & JMFC, Tarikere.

Dated: 15th Day of March 2025

ORIGINAL SUIT NO.134/2012

PLAINTIFF/s :

- 1) Smt.Parvathi W/o Ravi, aged 40 years,
- 2) Smt.Rukmini W/o Thirnakaras @ Manju,
aged 25 years,
- 3) Smt.Mohini W/o Rajappa, aged 38 years,
- 4) Annappa S/o late Kannappa, aged 26
years,

Plaintiffs No.1 to 4 are Agriculturists, R/o
Kenchapura Village, Lingadahalli Hobli,
Tarikere Taluk.

- 5) Panduranga S/o late Kannappa, aged 45
years, Agriculturist, R/o Kolathur Village,
Sangaravaram Taluk, Kallagudisi District,
Tamil Nadu State.

(Reptd. By : Sri S.V.Ashok Kumar., Advocate.)

Vs.

DEFENDANT/s:

- 1) The State of Karnataka, represented by
Deputy Commissioner, Chikkamagaluru
District.

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2) The Tahasildar, Tarikere Taluk, Tarikere Town.

(Reptd. By : Addl. Govt. Pleader)

PARTIES TO I.A.NO.XIII

Applicant/s

:

G.S.Vasanthkumar S/o late
Siddalingappa, aged 50 years,
Agriculturist, R/o Kenchapura Village,
Lingadahalli Hobli, Tarikere Taluk.

(Reptd. By : Smt.Savith.M., Advocate.)

Vs.

Opponent/s : Parvathi and others

i	Provision under which the application is filed	Order I Rule 10(2) r/w Section 151 of CPC
ii	Relief sought for	Implead the applicant
iii	The date of which the application is filed	04.12.2024
iv	Number of application	I.A.No.XIII
v	The date on which the objection are filed by different opponents	10.01.2025
vi	The date on which the orders were passed on the said application	15.03.2025

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**ORDER ON I.A.NO.XIII**

The present application is filed when the matter is set down for arguments on merits.

2. The applicant has filed the instant I.A., under Order I Rule 10(2) r/w Section 151 of CPC with prayer be pleased to implead him as defendant No.3.

3. The I.A., is annexed with the affidavit of applicant. It is stated in the affidavit that he has purchased the suit schedule property i.e., Sy.No.79/2 measuring 5.00 acres situated at Kenchapura Village, Lingadahalli Hobli, Tarikere Taluk from Smt.Mylathai W/o late Marimuttu and her family members through registered sale deed dated bearing S.R.No.1195/2016-17 dated 18.05.2016 for valid sale consideration and since the date of purchase, he is in peaceful possession and enjoyment over the said property. It is further stated that except himself, none of the parties in the suit are having any right, title, interest, possession over the said and hence, he is the necessary party in the above case to contest and to file written statement in the present suit. If the present application is not allowed and if he is not impleaded as defendant No.3, he will be put to great hardship and inconvenience and also he will loose his rights in the suit

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schedule property. On the other hand, if the application is allowed, no hardship will be caused to any parties to the suit. Hence, this I.A.

4. The copy of the I.A., served to the other side. The plaintiff has filed detailed objections and resisted the I.A., filed by the applicant and interalia contended that the proposed applicant is not a necessary party to the suit and the applicant is not diligent in establishing his right and filed the present application at belated stage. It is further contended that the proposed defendant is not in possession of the suit property and he could not have derived any title as the grantee himself lost his title. The applicant is at liberty to file a separate suit seeking the relief of declaration as there is no cause of action for him in the present suit. The plaintiff is the master of his suit and cause of action arose only against the present defendant and as such, the applicant cannot be impleaded. For all these grounds, the plaintiff prays for to reject the I.A., filed by the applicant with cost.

5. Heard arguments of both sides.

6. On perusal of the materials placed on record, the following points would arise for my consideration are :

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1) Whether the I.A.No.XIII filed by the applicant under Order I Rule 10(2) r/w Section 151 of CPC deserves to be allowed?

2) What order?

7. My findings on the above points are as follows :

Point No.1 : In the

Point No.2 : As per the order,

for the following:

REASONS

8. **POINT NO.1** : On perusal of the materials available on record, admittedly the plaintiffs have filed the present suit against the defendant for the relief of declaration to declare that they have acquired the title over the suit schedule property by adverse possession and also for permanent injunction against the defendants from interfering with the peaceful possession and enjoyment of the plaintiffs over the suit schedule property.

9. It is the urge of the applicant that he has purchased the suit schedule property from Smt.Mylathai W/o late Marimuttu and her family members through registered sale deed dated bearing S.R.No.1195/2016-17 dated 18.05.2016 for valid sale consideration and since the date of purchase, he is in peaceful possession and enjoyment over the said

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property and except himself, none of the parties in the suit are having any right, title, interest, possession over the said and hence, he is the necessary party in the above case.

10. On the other hand, the plaintiffs have contended that the proposed applicant is not a necessary party to the suit and the applicant is not diligent in establishing his right and filed the present application at belated stage, the proposed defendant is not in possession of the suit property and he could not have derived any title as the grantee himself lost his title and the applicant is at liberty to file a separate suit seeking the relief of declaration as there is no cause of action for him in the present suit.

11. It is to be noted that the plaintiff himself in the plaint stated that the suit schedule property was granted by defendant No.1 to one Marimuttu S/o Lakshmana in the year 1961 vide saguvali chit No.176/60-61 and the original grantee Marimuttu sold the said property to plaintiff's father in the month of June 1963 under oral transaction. The said Marimuttu left the village in the year 1963 and his whereabouts are not known. Further the applicant contended that Smt.Mylathal W/o late Marimuttu and her family members sold the suit schedule property in favour of

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applicant through registered sale deed bearing S.R.No.1195/2016-17. On perusal of the pleadings of the plaintiff and applicant, for proper adjudication of the rights of the parties, the impleading of said applicant is very much necessary. Therefore, opinion of this court is that, the proposed applicant is also necessary party to the proceedings of the above suit and in the absence of applicant, effective decree cannot be drawn. If this I.A., is allowed, there is no harm caused to the other side. For considering all these reasons, I answer Point No.1 in the Affirmative.

12. **POINT NO.2** : In view of my findings on Point No.1, I proceed to pass the following :

ORDER

I.A.No.XIII filed by the applicant under Order I Rule 10(2) r/w Section 151 of CPC is hereby allowed.

The applicant is hereby impleaded as defendant No.3 in the above matter.

For compliance of court order by:

(Dictated to the Stenographer on computer, computerized by her, corrected by me and then pronounced in the open Court on this the day of 15th day of March 2025.)

sd/-

(URMILA.V)

**ADDL.CIVIL JUDGE &
J.M.F.C., TARIKERE.**