

KACM710044762021



**IN THE COURT OF THE CIVIL JUDGE AND ADDL.
JMFC., AT TARIKERE.**

Dated This the 1st day of December 2022

PRESENT

**Sri. P.S.Santhosh Kumar, M.Com., LL.M.,
Civil Judge & Addl. JMFC,
Tarikere.**

O.S.No.443/2021

PLAINTIFF:

**Sri. Onkarappa,
S/o Sri. Attiganalu Revanna,
Aged about 58 years,
Agriculturist,
R/o. Koranahalli village,
Amruthapura hobli,
Tarikere Taluk.**

(By Sri. B.T.K., Advocate)

V/S

DEFENDANT:

**Grama Panchayath, Koranahalli,
Represented by its
Panchayath Development Officer,
Grama Panchayath, Koranahalli,
Amruthapura Hobli,
Tarikere Taluk.**

(By Sri. G.N.C., Advocate)

KACM710044762021

**PARTIES IN I.A.NO.III****APPLICANT:**

Sri. K.N. Kantharaju,
S/o. Sri. Nanjundappa,
Aged about 52 years,
Agriculturist,
R/o. Koranahalli village,
Amruthapura Hobli,
Tarikere Taluk.

(By Sri. B.P.R., Advocate)

V/S

PLAINTIFF**OPPONENT**

Sri. Onkarappa

ORDERS ON I.A No.III

The applicant has filed IA No.3 under Order 1 Rule 10 r/w Sec.151 of CPC seeking to implead him as defendant No.2 in the suit.

2. In the annexed affidavit of IA.No.3, he has stated that the plaintiff had filed a suit in O.S.No.194/2009 wherein the defendant was directed to take necessary action to recover possession of the suit schedule property. He has further stated that the

KACM710044762021



plaintiff had preferred appeal against the said judgment and decree in RA.No.26/2016 before the Hon'ble Senior Civil Judge, Tarikere, which came to be allowed holding that the Grama Panchayath of Koranahalli shall take legal action against the plaintiff in this suit. He has further stated that the plaintiff had also filed OS.No.193/2009 and he got dismissed the said suit and he has not referred the proceedings in the said O.S.No.193/2009 and suppressed the material facts. He has further stated that the suit schedule property is situated towards southern side of property bearing Assessment No.196. He has further stated that himself and his brother Sri Rudresh are gaining access to their property bearing Assessment No.193 measuring 65 x 69 feet from the suit schedule property which is situated towards southern side of Assessment No.196. He has further stated that the plaintiff is trying to close the said road and the plaintiff is claiming injunction in respect of illusory property and trying to knock off the valuable property of public. Hence, he is a necessary party to this suit.

KACM710044762021



3. The plaintiff has filed his objections admitting the proceedings in O.S.No.194/2009 and RA.No.26/2016. He has contended that he had preferred RSA No.1680/2017 before the Hon'ble High Court of Karnataka which came to be dismissed on 11.10.2019. He has further contended that the applicant is not a necessary party to the suit and the plaintiff in possession of the suit schedule property since many years. Accordingly, prayed for dismissal of the I.A.

4. Heard both sides. Perused the materials available on record.

5. The points that arise for my consideration are as follows :-

- 1) Whether the applicant has made out grounds to allow I.A.No.III?
- 2) What Order?

6. My findings on the above points are as under :-

Point No.1: In the negative,

Point No.2: As per final order,

for the following:-

KACM710044762021

**:: REASONS ::**

7. POINT No.1: I have gone through the IA No.3, objections and other materials available on record. The plaintiff has filed this suit against the defendant panchayath authorities for permanent injunction in respect of the suit schedule property claiming that he is in possession and enjoyment of the suit schedule property as the defendant has illegally trespassed into the suit schedule property on 25.11.2021. It is relevant to mention here that the applicant is seeking to implead himself as defendant No.2 as his property bearing Assessment No.196 is situated on the northern side of the suit schedule property and he is gaining access through the suit schedule property. Merely because of the same, he cannot be impleaded as a necessary party to the suit. It is relevant to mention here that the plaintiff is the master of his suit and the plaintiff has specifically contended that the applicant is not a necessary party and for the sake of the applicant, he cannot amend his pleadings. Further the suit is for the relief of permanent injunction against the defendant only. As such, I do not find any grounds to

KACM710044762021



allow the present I.A. With these observations, my findings on **Point No.1** is in the '**Negative**'.

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

:: O R D E R ::

I.A.No.3 filed by the applicant under Order 1 Rule 10 r/w Sec.151 of CPC is hereby dismissed with cost of Rs.1,000/-.

(Typed to my dictation directly over computer by the Stenographer, corrected, signed and then pronounced by me in the Open Court on this the **1st day of December 2022**)

sd/-

(P.S.Santhosh Kumar)
Civil Judge & Addl. JMFC,
Tarikere.

SAR