

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

Dated this the 18th day of November 2019

Present: Sri. Ganapati Gurusidda. Badami B.A. LL.B.(Spl)
ADDL. SENIOR CIVIL JUDGE & JMFC.,
CHAMARAJANAGARA.

O.S. No:78/2018

1. Sri. V. Keerthikumar S/o Late. Veerabhadrachar
.....Plaintiff

V/s

1. Sri. S. Basavanna S/o Shivappa
....Defendant

**ORDER ON I.A.No.6 U/O 1 RULE 10(2) R/W
SECTION 151 OF CPC**

Plaintiff has filed this application to implead proposed defendants as party to this suit.

2. In the accompanying affidavit of the plaintiff Keerathi Kumar, he has stated that, on 26.09.2019, the defendant and proposed defendants executed the registered partition deed, but the defendant in order to deprive his claim has executed the registered partition deed in favour of proposed defendants including suit

property and now proposed defendants are also title holders and they have right over the suit property and they are also interested party to this suit. He has stated that, after having the knowledge, he has verified the matter and filed this application and if his application is not allowed, he will be put to heavy and irreparable loss and on the contrary, no kind of loss or hardship will be caused to other side. Therefore, he prayed to allow the application.

3. Though notice to the proposed defendants is served, they have not appeared and contested the application.

4. Heard the learned counsel for plaintiff on the application and perused the materials on record.

5. Materials on record disclose that, plaintiff has filed this suit against the defendant seeking the relief of recovery of money. As per the case of plaintiff, on 06.12.2012, defendant borrowed the hand loan of Rs.5,00,000/- for his house hold expenses and legal necessity of the family and agreed to repay the said along with interest at the rate of 18% per annum and

executed the registered simple mortgage deed in favour of plaintiff. Plaintiff issued legal notice to the defendant on 09.04.2018 which is served upon the defendant and he has not replied to the legal notice and he has not repaid the said loan amount for which plaintiff filed the suit. The defendant has taken contention that, he is member of Sri. Chamarajeshwar Chits Pvt. Ltd., in Kavery-01 Ticket No.20 and monthly payment of said group is Rs.10,000/- and after payment of several monthly installments, defendant obtained chit amount and Managing Director of said chit directed to the defendant to execute the registered simple mortgage deed in respect of suit property as security for the purpose of chit amount and after clearance, simple mortgage will be discharged. The defendant cleared the chit amount and requested to the Managing Director to execute the discharge deed of the above simple mortgage who prolonged the same and plaintiff issued false legal notice and filed this suit. On perusal of documents, the plaintiff is claiming that, in respect of loan transaction of Rs.5,00,000/-, the defendant has executed the registered simple mortgage deed on 05.12.2012 and to that effect, plaintiff has

produced the registered mortgage deed which has been executed in respect of land bearing R.S.No.495/2 measuring 30 gunta. He has produced certified copy of partition deed executed by the defendant and his family members in respect of joint family properties including the land bearing R.S.No.495/2 measuring 30 guntas which has been partitioned and shares have been given to the family members. The said property is subject matter of this suit and in order to decide the claim of plaintiff in respect of recovery of said amount, presence of proposed defendants is very much necessary. Because, defendant has executed mortgage deed in respect of suit property and said property has been partitioned by the defendant and his family members and without participation of the proposed defendants, their rights and claim of plaintiff cannot be adjudicated effectively and completely and for deciding the rights of parties to the suit and right of proposed defendants, their impleadment is very much necessary. If they are not impleaded and in case, suit was decreed, it will affect the right of proposed defendants. So, I feel it just and proper to implead the proposed defendants as party to this suit. So I proceed to pass the following:

ORDER

I.A.No.6 under Order 1 Rule 10(2)
R/W.S.151 of CPC is hereby allowed.

Plaintiff is permitted to implead
the proposed defendants as party to
this suit.

Plaintiff shall carry out amendment
and furnish the amended plaint within
14 days from the date of order.

[Typed by me, corrected and then pronounced in the open court on
this 18th day of November, 2019.]

[GANAPATI GURUSIDDA. BADAMI]
Addl. Senior Civil Judge & JMFC.,
Chamarajanagara.