

IN THE COURT OF THE PRINCIPAL CIVIL JUDGE AND J.M.F.C., AT
KOLLEGALA

:PRESENT:

Smt. Nandini.M.N, B.A.L.LLB.,
Prl.Civil Judge and JMFC.,Kollegal

Dated This the 06th day of November 2023

ORIGINAL SUIT NO. 69/2010

PLAINTIFFS/ Applicant: *Smt. Jayamma & Another*
(By Sri. M. Ravikumar, Advocate)

V/S

DEFENDANTS/ Opponents: *Sri D. Nataraju & Others*
(By Sri M. Mallikarjuna & AGP, Advocate)

Proposed Defendants:

- 5. Manikanta.N S/o Late Nagaraju
Grand son of Chikkaravalaiah @ Chikkanna,
Aged about 23 years,
- 6. Nanjunda S/o Chikkaravalaiah @ Cikkanna,
Aged about 55 years,
- 7. Suresha S/o Chikkaravalaiah @ Chikkanna,
Aged about 52 years,
- 8. Chikkaravalaiah
S/o Chikkaravalaiah @ Chikkanna,
Aged about 48 years,

Proposed defendants No.5 to 8 are R/at
Shivanasamudra Village,
Palya Hobli, Kollegal Taluk,
Chamarajanagara District.

i	<i>Provision under which the application is filed</i>	<i>1 Rule 10(2) R/w 151 of CPC</i>
ii	<i>Relief sought for</i>	<i>Declaration and Injunction</i>
iii	<i>The date on which the application is filed</i>	<i>04.09.2023</i>
iv	<i>Number of the Application</i>	<i>Interim Application No.22</i>
v	<i>The date on which the objections are filed by the different opponents</i>	<i>13.10.2023</i>
vi	<i>The date which the orders were passed on the said application</i>	<i>06.11.2023</i>

ORDER ON IA.No. XXII FILED UNDER ORDER I Rule 10(2) R/w
SECTION 151 OF THE CODE OF CIVIL PROCEDURE.

The plaintiff No.2 has filed this application under Order I Rule 10(2) of C.P.C. seeking permission to implead proposed defendants as defendant no. 5 to 8 in the above suit.

2. In the affidavit accompanying IA, the plaintiff No.2 has sworn to an affidavit and stated that they have filed the above suit against the defendants for the relief of Declaration and Injunction. He further stated that, in respect of Saradi Pooja rights at Maramma Temple of Shivanasamudra village, proposed defendants No.5 to 8 are put forth their incompatible claim before the Hon'ble Deputy Commissioner at Chamarajanagara which is not available to them in fact for which we are entitled. The present moot question of this suit is also under same backdrop for other Saradi periods of an year. By that reason the cause of action already pleaded in the present suit and the cause of action against said proposed defendants are having nexus to one another.

Hence, the proposed defendants are proper and necessary parties to the suit for determination of real matter in dispute. Accordingly, he prayed to allow the application.

3. The proposed defendant No.5 has opposed present application by filing detailed objection denying averments made in the affidavit accompanying the application and stated that the application filed by the plaintiffs are neither maintainable under law nor on facts, as such, same is liable to be rejected. The above suit is a record of adjudication by the Hon'ble District Magistrate Chamarajanagar regarding to question of Pooja hakku. However, the plaintiffs have inspite of having knowledge of the said aspect has filed false suit against the defendants and now he also filed present false application with an intention to harass them. As such it is not necessary to implead these proposed defendants in the suit. For all these reasons, they prayed to reject the application.

4. Heard on both sides & perused the materials on records. The following points arise for my consideration:

1. Whether the plaintiff No.2 has made out sufficient grounds to allow IA No.XXII filed under order 1 rule 10(2) of CPC., to implead proposed defendants as defendant no.5 to 8 in the above case?

2. What order?

6. My answer to the above points are as under

Point No.1: In the Affirmative

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

REASONS

6. Point no.1:- The plaintiffs have filed this suit against the defendants for relief of Declaration and Permanent Injunction and other allied reliefs. The plaintiff No.2 has filed this application seeking permission to implead proposed defendants as defendant no.5 to 8 in this case. In respect of Saradi Pooja rights at Maramma Temple of Shivanasamudra village, proposed defendants No.5 to 8 are put forth their incompatible claim before the Hon'ble Deputy Commissioner at Chamarajanagara which is not available to them in fact for which we are entitled. The present moot question of this suit is also under same backdrop for other Saradi periods of an year. By that reason the cause of action already pleaded in the present suit and the cause of action against said proposed defendants are having nexus to one another. As such, the proposed defendants are proper and necessary parties to decide the controversies involved in this suit.

7. On the other hand the proposed defendants have denied the averments made in the affidavit accompanying present IA and stated that the above suit is a record of adjudication by the Hon'ble District Magistrate Chamarajanagar regarding to question of Pooja hakku. However, the plaintiffs have in spite of having knowledge of the said aspect has filed false suit against the defendants and now he also filed present false application with an intention to harass them As such they are not necessary parties to the suit.

8. It is pertinent to mention that as per Order I Rule 10 of the Code of Civil Procedure, 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 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.

9. It is pertinent to note that, whether the plaintiffs have left with the Saradi Pooja or not has to be decided after fulfilled trial. As such there is a serious dispute with respect to the title of the parties over the Saradi Pooja. Whether the plaintiff or defendant or proposed defendants have right or title over the Saradi Pooja or not has to be decided after fulfilled trial. At this stage, the said aspect can not be decided. Further, after fulfilled trial if the suit is decreed in favour of the plaintiffs, defiantly it would affect the right of the proposed defendants. If they are made party to the suit, the proposed defendants would get an opportunity to contest the suit by filing their written statement and cross examining the plaintiffs with regard to the stand taken by them. As such it would help the Court in deciding real controversy between the parties with regard to the subject matter of the suit. Hence their presence is just and necessary to decide the case on merits. Further if the proposed defendants are made as parties to the suit no prejudice would be caused to them rather it would help the Court in complete and effectual adjudication of the matter. For all these reasons, the plaintiffs have made out sufficient grounds to implead the

proposed defendants to the suit. Hence Point No.1 is answered in the Affirmative.

10. **Point No.2:** In view of the aforesaid reasons and in the result, this Court proceeds to pass following:-

:: ORDER ::

I.A.No. XXII filed by the plaintiff under Order I Rule 10 (2) of the Code of Civil Procedure is hereby allowed.

The proposed defendants are made as defendants no.5 to 8 to the suit.

The plaintiff No.2 is hereby directed to carry out necessary amendment in the plaint and furnish the amended plaint.

No order as to costs.

(Dictated to the Stenographer, transcribed by her on Computer, same is corrected and then pronounced by me in the open court on this the 06th Day of November 2023).

Prl. Civil Judge and JMFC
Kollegal.

(Vide Separate Order pronounced in open Court)

:: ORDER ::

I.A.No. XXII filed by the plaintiff under Order I Rule 10 (2) of the Code of Civil Procedure is hereby allowed.

The proposed defendants are made as defendants no.5 to 8 to the suit.

The plaintiff No.2 is hereby directed to carry out necessary amendment in the plaint and furnish the amended plaint.

No order as to costs.

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