

KADG220001412019



**IN THE COURT OF THE PRL. CIVIL JUDGE AND J.M.F.C.,
CHANNAGIRI**

:: Present ::

**Shri. Siddalingayya B.Gangadharamath
B.Com. L.L.B.,(Spl)
Prl. Civil Judge and J.M.F.C.,
Channagiri.**

O.S.No.23/2019

Dated this the 18th Day of March 2024

PLAINTIFFS : Smt. Shankamma and others
V/s

DEFENDANTS : Smt. Kamalamma and others

I.A.NO.VI

Applicants/plaintiffs : Smt. Shankamma and others
V/s

Opponents/defendants : Smt. Kamalamma and others

ORDER ON I.A.No.VI

1.	Provision under which the application is filed:	:	Under Order 1 Rule 10(2) of CPC
2.	Relief sought for	:	Impleadement of proposed plaintiff No.7 to 9

3	Date on which the application is filed :	20.12.2023
4.	Number of the application :	IA.No.VI
5.	Date of which the objections are filed by different opponents :	17.01.2024
6.	The date on which the orders is passed.	18.03.2024

ORDER ON IA No.VI

It is the application of proposed plaintiff No.7 to 9 under Order 1 Rule 10(2) of CPC praying for permission to come on record as proposed plaintiff No.7 to 9.

2. SOME AND SUBSTANCES OF THE AFFIDAVIT AS UNDER:

The proposed plaintiff No.7 filed the supporting affidavit and she stated in it, that the plaintiffs No.1 to 6 filed the suit for relief of partition and separate possession in respect of suit schedule properties. The plaintiffs claimed such legitimate share through the propositus namely, Karegowdappa S/o Krishnappa, who had 3 sons. Out of them, the 3rd son was Hanumanthappa and his legal representatives filed this suit. The name of husband of deponent is mentioned in para No.2 of the plaint and the family tree. However, the plaintiffs have not added the proposed plaintiff No.7 to 9. The husband of deponent has got 1/3rd share and the proposed plaintiffs being his legal representatives are also entitled, jointly, the said 1/3rd share with the plaintiffs No.1 to 6. Thus, the applicants prayed

that, they are necessary parties to this suit and therefore necessary orders in that regard be passed allowing them to come on record as plaintiffs No.7 to 9.

3. The plaintiffs have no objection to this application. The learned counsel for defendants submitted oral objection to the effect that, there is no provision at all to the parties to come on record as plaintiffs. He submitted that, if the proposed plaintiffs wish to come on record, they may come as defendants and not as plaintiffs. Thus, he submitted for the rejection of the application pressed into service in the current fashion and prayed accordingly.

4. Having heard the plaintiffs, proposed plaintiffs and defendants, perused the oral objection of defendants, the following points would emerge for my consideration;

POINTS

1. Whether the proposed plaintiffs are necessary parties to the suit?
2. What order?
5. My findings to the foregoing points;

POINTS

Point No.1 : In the Affirmative

Point No.2 : As per the final order

for the following,

REASONS

6. Point No.1:- At the outset, it is the suit for the relief of partition and separate possession of asserted 1/3rd share of plaintiffs in suit schedule properties. The plaintiffs claimed the genesis of suit schedule properties through one Karegowdappa S/o Krishnappa. The necessary genealogical tree has been described in the paragraph No.2 of the plaint and whereunder the 4th son of Karegowdappa S/o Krishnappa named as Hanumanthappa. In all total 9 legal heirs have been branched out descending to the Hanumanthappa, his wife Hiriyaamma and one Papanna was also a son of Hanumanthappa. As per the claim of proposed plaintiffs, they are the legal representatives of Papanna and in that regard, none of the plaintiffs including the defendants put any such contrary statements. Under such circumstances, the assertion of plaintiffs can be regarded and be accepted for the purpose of legal heirship of Papanna is concerned in so far as the joint family and the properties are concerned.

7. The suit is essentially for the relief of partition and separate possession of the joint family properties and it is filed by the descendants of Hanumanthappa and Hiriyaamma. The proposed plaintiffs are also come within branch of said Hanumanthappa's family and they have every right to come on record as a plaintiffs. No share or relief, cause of action would be affected, if they come on record as plaintiffs. Under such circumstances, the objections so

raised by the defendants cannot be accepted and needs to be overruled. Accordingly, the **point No.1** held in the **Affirmative**.

8. Point No.2:- As a result, I proceeds to pass the following.

ORDER

The IA.No.VI filed under Order 1 Rule 10(2) of C.P.C., is hereby allowed.

Consequently, the proposed plaintiffs No.7 to 9 are permitted to come on record as plaintiff No.7 to 9.

In furtherance, the plaintiffs are hereby directed to amend the plaint and furnish the amended plain accordingly.

For amendment and amended plaint.

(Dictated to the Stenographer, transcribed and computerized by her, script corrected and then pronounced by me in Open Court on this **18th day of March, 2024**)

Sd/-

**(Siddalingayya B.Gangadharamath)
Prl. Civil Judge & J.M.F.C.,
Channagiri.**