

**IN THE COURT OF THE I ADDL CIVIL JUDGE & JMFC,
CHANNAGIRI.**

Dated: 10th Day of November 2025

PRESENT: **SMT. MAHALAKSHMI G M.A. L.L.B.,
I Addl Civil Judge & JMFC, Channagiri.**

O.S. No.364/2023

PLAINTIFFS : Smt. Madamma and others

V/s

DEFENDANTS : Smt. Bharathi

IA No-II

**Applicants/ : Smt. K.M. Gangamma
Plaintiff No.4**

V/s

**Opponent/ : Proposed defendant Smt. Kenchamma
Defendants W/o Shivalingappa,**

- | | |
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| 1. Provision under which the application is filed | Under Order 1 Rule 10(2) R/w Sec.151 of CPC |
| 2. Relief sought for | Impleading parties |
| 3 Date on which the application is filed | 29-03-2025 |
| 4. Number of the application | I.A.No.II |
| 5. Date on which the objections are filed by different opponents | ----- |
| 6. The date on which the orders is passed | 10-11-2025 |

ORDERS ON IA No.II

The plaintiffs have filed present application U/o 1 Rule 10(2) R/w Sec.151 of CPC, for impleading the proposed defendant in the present case in the ends of Justice and equity.

2. In support of the plaintiff No. 4 sworn an affidavit stating that, she along with her mother and sisters filed the present suit against the defendant No. 1 seeking the relief of Partition and Separate Possession in the suit schedule property. Prior to the death of defendant No. 1 K.S.Somashekharappa and the plaintiffs were entered into the registered agreement of sale dated 29-10-2020 for consideration Rs. 10,50,000/-. But as per agreement of sale registered sale deed was not executed by husband of defendant No. 1 and plaintiff. Subsequently the agreement holder died. Thus, proposed defendant is the legal heir of said agreement holder who is wife namely Kenchamma W/o Shivalingappa. Thus it is necessary to implead the proposed defendant in the present suit as defendant No. 2. as the defendant No. 2 taken contention in her written statement in this regard. Thus prays to allow the application.

3. Notice on I.A.No. 2 to the proposed defendant being served, despite providing sufficient opportunity appeared through her counsel but not filed any objection to I.A.No. 2.

4. Heard the arguments.

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

1. Whether the plaintiff establishes grounds for presence of proposed defendant no.2 is necessary party for proper adjudication of the case?

2. What order ?

6. My answer to the above points are as follows :-

Point Nos.1 : In the **Negative.**

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

REASONS

7. **Point No.1 :-** Admittedly, the plaintiffs have filed the present suit against the defendants for the relief of Partition and Separate possession in respect of the suit schedule properties.

8. The plaintiff in her affidavit clearly stated that, during lifetime of K.S.Somashekharappa i.e husband of defendant No. 1 and present plaintiffs have executed the registered agreement of sale dated 29-10-2020 in favour of proposed defendant till the said transaction is not completed as the defendant No. 1 have taken specific contention in her written statement in this regard. Thus the said agreement

holder is proper and necessary party in the present suit.

9. Having taken note of the averments of the affidavit and the nature of relief sought by the plaintiffs in the present suit, this court is of the opinion is that, as per Section **54 of Transfer of Property Act-1882**

"A Contract for the sale of immovable property is a Contract that a sale of such property shall take place on terms settled between the parties. It does not, of itself, create any a right, interest, title in or charge on such property".

Law is very clearly spelling out that the Agreement of sale per se does not create any interest in the property which is the subject matter of the agreement.

Citation: 2024 Live Law (KAR) 42.

Master Thejas & Another & C.R.Babu in WP No. 37203/2015 Para No.7 -"No right is created under agreement for sale in respect of Schedule property, except the right to seek specific performance of Contract against the persons-

The plaintiff not made out genuine ground to allow the application. Under such circumstances this court answer the **Point No.1 in the negative.**

10. Point No.2 :- For the reasons stated above, I proceed to pass following;

ORDER

The I.A. No.II filed by the plaintiff under order 1 Rule 10(2) R/w Sec.151 of C.P.C. is hereby rejected without cost.

[Dictated to the stenographer directly on computer, typed by her, corrected and then pronounced by me in the open court on this day of 10th day of November 2025]

**(Smt.Mahalakshmi G)
I Addl. Civil Judge And JMFC,
Channagiri.**