

KADG520002272016



IN THE COURT OF THE ADDL. CIVIL JUDGE AND JMFC, HONNALI.

PRESENT

Sri. PUNYAKOTI S N
BA LLB
Addl. Civil Judge and jmfc,
Honnali.

OS No.58/2016

Dated this 22nd day of April 2026

Plaintiff : Gadigeppa

Vs

Defendants : Sri. Channabasappa and others.

Parties I.A.No : X

Applicant/
proposed defendant No.18 : Thimmanagowda M

Vs

Opponents/
Plaintiff : Gadigeppa

ORDERS ON IA No.10

This is an application Under Order 1 Rule 10(2) R/w sec. 151 of C.P.C filed by the applicant to implead him as defendant No.18 into the suit.

2. In support of the said application, the applicant submits in his affidavit that, he is the grand son of the deceased defendant

No.1 and son of defendant No.2. The deceased defendant No.1 during his lifetime has bequeathed his 1/7th share in the ancestral and joint family properties to him and plaintiff and defendant No.2 to 6 infavour of the applicant through registered Will bearing No.HNL-3-00035-2021-22 C.D.No.HNLD724 dtd: 24-06-2021. In order to get his 1/7th share as per the said Will, it is just and necessary to implead him in the case as defendant No.18. Hence prayed to allow the application.

3. On the other hand, the plaintiff filed objections to application and submitted that, the alleged Will dtd:24-06-2021 is not genuine and same is concocted by the defendant No.2 and the applicant. The defendant No.1 has no right to bequeath un-ascertained property and he has no locus standy and defendant No.18 is not a necessary and proper party to the suit. Further submitted that at the time of alleged Will, the defendant No.1 aged about 92 years and he was not in a sound state of mind. Hence prayed to dismiss the application.

4. On the rival contentions of the parties, the following points that arise for my consideration:

1. Whether the application deserves to be allowed ?

2. What order?

5. Heard both side.

6. My findings to the above points are as under;

Point No.1 – Affirmative

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

REASONS :

7. Point No.1 : The plaintiff has filed the instant suit against the defendants for the relief of Partition and separate possession. The applicant averred that, defendant No.1 being his grand father bequeathed the some of the suit schedule properties in his favour by executing a Will. Now the defendant No.1 is reported to be died. As per the order 22 Rule 10 of CPC the interest over the said suit schedule properties are devolved on the applicant. When the applicant alleged to be have rights and interest over the said suit schedule properties, he must be a necessary party to the suit with respect to the properties alleged to be bequeathed in his favour by deceased defendant No.1.

8. The contention of the plaintiff that , the alleged Gift deed is created and concocted by the defendant No.2 and the applicant has to be decided at merits and not at this stage. Since the defendant No.1 reported to be died, hence whether he had alienable rights over the same through Will has to be adjudicated through the applicant. In the touchstone of the reasons assigned above, I answered the Point No.1 in the Affirmative.

8. Point No.2 : In view of findings on Point No.1, this court proceed to pass the following:

ORDER

The IA No-X filed by the applicant is

hereby allowed.

The plaintiff is directed to implead
the applicant as defendant No.18.

[Dictated to the stenographer directly on computer, typed by her, corrected and then pronounced by me in the open court on this 22nd day of April 2026].

(PUNYAKOTI S N)
Addl. Civil Judge and JMFC,
Honnali.

Case called out.

(Order pronounced in the open Court, vide separate order).

Order

I.A.No.XXIV filed by the applicant Under Order I Rule 10 R/w sec.151 of C.P.C is hereby allowed.

The petitioners are directed to implead the applicant as respondent.

ACJ., Honnali.