

OS 86/2013 Dt:24-09-2019

ORDER ON I.A.No.IV

The I.A. No.IV filed by the plaintiffs under Order 1 Rule 10(2) r/w Section 151 of CPC praying to permit the plaintiffs to implead the proposed defendant as defendant no.10 in the present case and such other reliefs.

2. In the accompanying affidavit, it is stated that, the plaintiffs have filed the present suit for partition and separate possession. During the pendency of the suit, this defendant sold the suit property without informing the court in favour of the proposed defendant. Therefore, the proposed defendant is necessary to be impleaded as defendant no.10 and prayed to allow the application.

3. On the other hand, the proposed defendant has filed objections contending that, she is neither proper party nor necessary party. Hence, she has prayed to dismiss the suit.

4. Heard the arguments. Based on the above pleadings the following points arise for consideration:

- 1) Whether the presence of the proposed defendant no.10 is necessary to adjudicate the matter effectually and effectively?*
- 2) What order?*

5. Findings to the above points are as here 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 the present suit for partition and separate possession. The defendants have filed written statement denying the plaint averments. It is admitted fact that, during the pendency of the suit, this defendant sold suit property in favour of the proposed defendant no.10. Since the proposed defendant purchased the suit property when the suit is pending, she is necessary party to decide the dispute effectively and effectually. Therefore, without much discussion, the presence of the proposed defendant is necessary. Accordingly, the Point No.1 held in the **Affirmative**.

7. **Point No.2:-** For the above said reason, the following;

ORDER

The I.A.No.IV filed by the plaintiffs under Order 1 Rule 10(2) r/w Section 151 of CPC is hereby allowed.

The plaintiffs are permitted to implead the proposed defendant as defendant no.10 in the present case.

Call on for compliance of order and filing of amended plaint by 15-10-2019.

(YASHAVANTH KUMAR R.)
CIVIL JUDGE & J.M.F.C.,
MOODBIDRI