

31.08.2023

ORDER ON I.A.No.8

The plaintiffs' counsel has filed this application under Order 1 Rule 10(2) and Sec.151 of CPC and prays to implead the person mentioned in the I.A. as defendant no.12 in this suit.

2. In the affidavit it is stated that, the defendant No.1 without any legal right has executed alleged Settlement Deed dated 03.10.2018 one month prior to the suit in favour of his wife with an intention to harass the plaintiffs. The said fact came to know recently, when obtained new RTC of the suit property. Therefore, the suit is liable to be tried in her presence. Hence, this application.

3. On the other hand, the counsel for defendant no.1 has filed objection and denied the averments of the affidavit and stating that, he has executed Settlement Deed in favour of his wife Smt.Sumathi Sapaliga much prior to filing of this suit. He filed his written statement on 02.02.2019 and the fact of execution of the aforesaid Settlement Deed and her possession and enjoyment of the same was clearly mentioned in para No.7 of his written

statement. The plaintiff No.2 filed affidavit in lieu of examination of the chief on 16.03.2020. Thereafter several adjournments took place for further examination in chief. This application is filed only to harass this defendant. Hence, prays to dismiss the I.A.

4. In support of plaintiffs' contention, they have furnished RTC extract.

5. Heard and perused.

6. Plaintiffs have filed suit against defendants for the relief of Partition of the plaint 'B' schedule properties. As per the plaintiffs, the proposed defendant no.12 is necessary party. The necessary party is a person who ought to have been joined as a party and whose absence no effective decree could not be passed at all by the Court, whose presence enable the Court to completely, effectively and adequately adjudicate upon the matter in dispute in the suit though he need not be a person, he is the necessary party. In this suit, proposed defendant no.12 is a necessary party or proper party. Hence, this Court proceed to following:

ORDER

The I.A.8 filed by the plaintiffs under Order 1 Rule 10(2) and Sec.151 of CPC is hereby allowed.

To carryout amendment and furnish amended plaint.

Call on **11.10.2023.**

Sd/-

Civil Judge & JMFC,
MOODBIDRI