

**IN THE COURT OF PRL.CIVIL JUDGE AND PRL.JMFC,
DHARWAD**

-: PRESENT :-

**Sri.AVINASH GHALI.,
B.A. LL.B.,
Prl. Civil Judge & .J.M.F.C., Dharwad**

Dated this the 23rd day of July -2025

Original Suit No.668/2012

BETWEEN

Plaintiff : Shri. Suresh S/o Krishnsharma
Betageri

(By Sri. S.T.P., Adv.)

V/s.

Defendants: Sri. Gangadhar S/o Gurusangayya Hiremath
and others.

(Defendants by B.K.M Adv.)

PARTIES TO I.A.NO.19

Applicants : Shri. Suresh S/o Krishnsharma
(Ori. Pltf) Betageri

V/s.

Opponents : 1. Gangadhar S/o Gurusangayya Hiremath
(Ori. Defts.) and others.

1.	Provision under which the application is filed	I.A U/O.1 Rule 10(2) R/w Sec.151 of CPC
2.	Relief sought for	Prayer to implead defendant No.8 and 9
3.	The date on which the application is filed	04-07-2023
4.	Number of the application	
5.	The date on which the objection filed by different opponents	02-11-2023
6.	The date on which the orders were passed on the said application	23-07-2025

ORDER ON I.A.NO.19

The counsel for plaintiff has filed I.A No.19 to implead proposed nos. 8 and 9 as parties. Plaintiff no.1(a) filed affidavit annexed with present application, wherein it is stated that the suit is filed against defendants nos. 1 to 3 for having a specific performance

of contract with related to Block No. 19 at the southern side measuring 4 acres 30 gunta. Whereas the father of plaintiff has got agreement of sale in his favour executed by Defendant nos. 1 and 2. Rs.2,00,000/- on 21.06.2007 and also paid Rs.1,90,000/- as earnest amount. However, the defendants no. 1 and 2 failed to execute the sale deed by receiving the remaining amount, but the defendant no. 1 and 2 have sold the suit schedule property in favour of defendant no. 3 on 25.01.2012 for Rs.10,00,000/-. However on 03.07.2015 the defendant no.3 has sold the suit property in favour of one Sri Deepak S/o Bhimaji Durgai and said Deepak S/o Bhimaji Durgai has executed the sale deed in favour of defendant no. 5 and 17.08.2017. Therefore during the pendency of suit these transactions were taken place in favour of proposed defendant Nos. 8 and 9. Hence, the proposed defendant Nos. 8 and 9 are also necessary parties to the present suit. Hence, pray to Allow the application.

3. The proposed defendant no. 8 and 9 have filed objection to the IA No.19 by denying the contention of plaintiffs and have objected to implead them as party to the present suit. It is contended that the present application is filed to protract the proceeding and also

there is a delay of 11 years to implead the proposed defendant Nos.8 and 9. The suit is filed only against defendants no.1 and 2 for specific performance of contract and the alleged agreement sale is dated 25.01.2012, but suit is filed on 06.09.2012, which is barred by time for specific performance of alleged agreement dated 25.01.2012. The filing application after lapse of nearly 11 years is barred by time. The suit property was originally belonging to defendant no.5 and 6, who have sold the property to one Dinesh Rao i.e. defendant no.3 through registered sale deed dated 25.12.2012. Whereas defendant no.3 has sold the suit property to the proposed defendant no.8 through registered sale deed dated 30.07.2015. The mutation has been effected in favour of defendant no. 8 and defendant no. 8 intended to sell the suit property to defendant no. 9 and examined the title. Hence there was no objection from anybody. As such, defendant no. 8 sold the suit schedule property for valuable consideration on 17.08.2017 in favour of defendant no.9. Defendant no. 9 is owner in possession of the suit schedule property. Thus, the plaintiff filed the false application by suppressing the material facts. The defendants no. 8 and 9 are the bona fide purchasers. The suit is devoid of merits and no grounds have been made out by the

plaintiff, if application is not allowed. No loss would cause to the plaintiff. Hence prays to reject the application.

4. Heard the learned counsel for proposed defendants and learned counsel for plaintiff and perused the material on records.

5. The following point that would arise for consideration by this Court:

1. Whether the implead plaintiff has made out grounds to the proposed defendant No.8 and 9 as party to the present suit as claimed under IA No.19 ?
2. What order?

6. My findings on above points are as under :

Point No.1 : In the Affirmative

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

REASONS

7. Point No.1: It is to be noted that the plaintiff has filed IA No.19 to implead the proposed defendants no.8 and 9, who are the subsequent purchasers of the suit schedule property. Whereas after issuance of notice proposed defendant Nos. 8 and 9 appeared through their counsel and filed the objection by objecting the present application on the ground that the present application is filed after delay of 11 years and the suit is barred by limitation. Even these defendants have contended that they are the owners of suit schedule property on the basis of registered sale deeds. It is relevant to note that it is not in a dispute that the defendant no.3 has sold the suit schedule property in favour of proposed defendant no.8 on 30.07.2015, whereas the defendant no. 9 has purchased the suit property from defendant no.8 through registered sale deed dated 17.08.2017. Thus it is clear that these are subsequent sale deeds have been executed in favour of defendant No.8 and 9. Hence it is clearly goes to show that the proposed defendant no. 8 and 9 are also claiming right over the suit property on the basis of registered sale deeds. Therefore the plaintiff is seeking for execution of registered sale deed with respect to suit schedule property in the present suit, then the proposed

defendant No.8 and 9, being the subsequent purchasers, are also necessary parties to adjudicate their rights over the suit schedule property. If application is allowed, certainly it will not cause any loss or hardship to the proposed defendants no. 8 and 9, but on the contrary, it provides opportunity to the proposed defendants no. 8 and 9 to adjudicate and to protect their rights over the suit schedule property by contesting the suit. Hence, this Court is of the opinion that the proposed defendants No.8 and 9 are necessary parties. As such, the plaintiff has made out a grounds to allow the present application. In light of the above discussion, **point no. 1 is answered in the affirmative.**

8. Point No.2: For the forgoing reasons, discussion and finding on point no.1, this Court proceeds to pass following.

ORDER

IA. No.19 filed by plaintiffs under Order I Rule 10(2) R/w Section 151 of CPC is hereby allowed and proposed defendant no.8 and 9 are arrayed as party i.e. defendant nos. 8. and 9.

For amending the cause title and furnishing
the amended cause title and written statement of
defendant No. 8 and 9.

(Dictated to the stenographer transcribed and computerized by
her, then script corrected and signed by me and pronounced in the open
court dated this 23rd day of July 2025).

(Avinash M. Ghali)
Prl., Civil Judge & JMFC.,
Dharwad.