

ORDER ON IA No.11

The Advocate for respondent No.6 has filed application U/o.1 Rule 10 of C.P.C. seeking permission of the court to implead the proposed respondent No.6 as party in the proceedings. Along with the application he has filed affidavit stating that he has preferred writ petition before Hon'ble High Court of Karnataka in WP No.105241/2025. The Hon'ble High Court of Karnataka granted liberty to file fresh application along with Will. Therefore, he has filed fresh application.

2. The advocate for petitioner has filed objection contending that the proposed party has created the illegal Will. The so called Will for the first time came before the court. Therefore, application may be rejected.

3. Heard both side and perused the materials on record.

4. This court has rejected the I.A. filed by Advocate for respondent No.1 on 07.07.2025. He has preferred writ petition before Hon'ble High Court by challenging the order passed by this court. The Hon'ble High Court of Karnataka in para No.4 held as under:

“In that view of the matter, reserving liberty to the petitioner to file one more application by enclosing the Will, which would be required to be considered by the Final Decree Court on merits, the petition stands disposed of.”

5. In view of the direction by the Hon'ble High Court of Karnataka in order to consider the Will and decide the case on merit the opportunity has been given to the petitioner to prove the Will as required U/s.61 of Indian Succession Act and Section 58 of Indian Evidence Act. Without giving opportunity, court cannot decide the case of the parties. Therefore, the application filed by Advocate for respondent No.6 U/o.1 Rule 10 of C.P.C. is hereby allowed.

The petitioner is hereby directed to amend the petition and submit the amended petition on or before 12.11.2025.

Prl. Senior Civil Judge, Hubballi.

