

IN THE COURT OF THE II ADDITIONAL SENIOR CIVIL
JUDGE, HUBBALLI.

PRESENT
SRI. A.G.GANGADHARA, *B.A.LL.B.*
II ADDL.SR.CIVIL JUDGE, HUBBALLI.

O.S.No.390/2013
Dated this the 25th day of June, 2016

Plaintiff : Smt.Geeta N. Hiremath
(By Sri R.P.U., Adv.)

V/S

Defendants : Shantavva M. Patil & others
(By Sri I.V.M., Adv.)

PARTIES TO IA VIII

Applicant : G.N.Hiremath

V/S

Opponents: S.M.Patil & others

ORDERS ON IA VIII

The plaintiff filed the instant IA No.8 u/o 1 rule 10(2) of CPC to implead two more persons as defendants 6 and 7.

2. The plaintiff filed her affidavit in support of this application inter-alia contending that she filed this suit for specific performance of contract basing on the agreement of sale dt.4-5-2010. Proposed defendant No.7

is the attesting witness to the agreement of sale dt.4-5-2010. He has knowledge about the execution of agreement of sale. Even then, he got transferred the suit schedule properties in his favour in collusion with the defendants with an intention to deprive the right of the plaintiff. In turn, the defendant No.7 sold the suit property to defendant No.6 with the help of sale deed dt.25-5-2013. The defendants and proposed defendants have colluded with each other and created a bogus document. This fact came to her knowledge after filing the additional written statement by defendants 1 to 5. Hence, defendants 6 and 7 are necessary parties to adjudicate the dispute involved in this case and to avoid multiplicity of proceedings. On the basis of these grounds the plaintiff requested this court to allow this application.

3. Notice of this application served on the proposed defendants. Sri K.H.H. advocate filed vakalath on behalf of defendant No.7. But defendant No.7 has not filed objections to this application. Even after service of notice on the defendant No.6, he remained absent. The defendants have not filed objections to this application.

4. Points for consideration:

- (1) Whether the plaintiff has made out a ground to allow this application?
- (2) What order?

5. Arguments heard.

6. My answers to the above points are as follows:

Point No.1 : In the Affirmative
Point No.2 : As per final order for the following:

R E A S O N S

7. Point No.1: The plaintiff filed this suit for specific performance of contract basing on the agreement of sale dt.4-5-2010. It is the specific contention of the plaintiff that the defendant No.7 is the attesting witness to agreement of sale. He has knowledge about the execution of agreement of sale. Even then, he got transferred the suit property in his name and in turn, he sold the same in favour of defendant No.6. The proposed defendants have not filed objections to this application resisting the claim of the plaintiffs. The defendants also have not filed objections to this application. Taking into consideration nature of relief sought for in the suit, having regard to the reasons assigned on behalf of the plaintiff, I am of the opinion that the presence of these two persons is necessary for the effective adjudication of the dispute involved in this case. No hardship or injury would be caused to these defendants in the event of allowing this application for the reason that they will have an ample opportunity to participate in the proceedings and to set

up their contention. On the other hand, the plaintiff will be put to greater hardship in the event of dismissal of this application for the reason that she will be prevented from initiating the proceedings against the proper person and it may leads to multiplicity of proceedings. Hence, I answer this point in the affirmative.

8. Point No.2: In view of the foregoing observations and discussion, I proceed to pass the following:

O R D E R

IA No.8 filed u/o 1 rule 10(2) of CPC is
hereby allowed.

(Dictated to the Stenographer, transcribed and computerized by her, script corrected and then pronounced by me in the open court on this the 25th day of June-2016)

(A.G.Gangadhara)
II Addl.Senior Civil Judge, Hubballi.
