

IN THE COURT OF THE II ADDITIONAL SENIOR CIVIL**JUDGE AND J.M.F.C. HUBBALLI**

Present:- Smt.Deepa G Manerkar,
B.Com. LL.B, (Spl.)
II Addl. Senior Civil Judge & J.M.F.C.,
Hubballi.

Dated this the 17th day of March 2026

FDP 52/2024

Abhishek S/o Venkaraddy Melagiri and another

...Plaintiff/s

-Versus -

Choudarry S/o Beemraddy Melagiri
Since dead by LR's

...Defendant/s

IA.No.VII

Sri. Prakash S/o Seetaramaraddy Mallareddy

APPLICANT/ THIRD PARTY

Versus -

Abhishek S/o Venkaraddy Melagiri and another

OPPONENT/ PETITIONER

**:: ORDERS ON IA. NO.VII FILED UNDER ORDER I RULE
10(2) R/W SEC.151 OF C.P.C ::**

The present I.A. is filed by the applicant under Order I Rule 10(2) R/w Sec.151 of CPC to implead the proposed respondent No.5.

2. In the affidavit accompanying the I.A., it is sworn by proposed applicant No.5 that the Bheemraddy Melagiri and his wife Bheemavva were died leaving behind Chouraddy and Hemraddy, Savakka and Laksh mavva. The proposed Respondent No.5 is the son of Laksh mavva. The Chouraddy died leaving behind Venkaraddy, Lingaraddy and Leelavathi. Out of which, Venkaraddy died leaving behind his wife Shridevi and son Abhishek i.e., Petitioners. After the death of Venkaraddy, they filed the suit for partition in OS No.227/2012 before this Hon'ble court, including the RS No.41 measuring 21 acres 33 guntas of Karlwad village. Out of which she filed suit in respect of Chouraddy's share to an extent of 05 acres 17 guntas. The suit came to be dismissed. Against which she filed RFA No.100154/2015 before Hon'ble High Court of Karnataka, Bench at Dharwad and same is

allowed by decreeing the suit of the plaintiff on 24-04-2024. That the his mother Lakshnavva has filed suit against her brother by name Hemraddy and Chouraddy before the Hon'ble Civil judge and JMFC Navalgund in O.S.No.158/2011 which ended in compromise. As per the compromise decree land to an extent of 10 acres 34 guntas is given to Lakshnavva i.e., his mother. In 10 acres 34 guntas it includes the share of Chouraddy, it is specifically mentioned in the compromise decree, Chouraddy took an amount of Rs.3,00,000/- and relinquished his share in favour of mother of present applicant. That, the said property is not ancestral property. Same has been inherited by Chouraddy from the Will executed by one Yallappa S/o Basappa Chouannavar. That, in the said suit the defendants filed the written statement and clearly stated regarding the compromise decree. Even then the plaintiffs are not impleaded his mother as party to the proceedings. His mother died on 27-03-2024 leaving behind himself as only her sole legal heir. Though the compromise decree is within the knowledge of the plaintiff, intentionally she has not made his mother as party to the

proceedings. That the children of Hemaraddy filed the partition suit in respect of property of Hemaraddy in O.S.No.65/2019 on the file of Senior Civil Judge at Navalgund. In the year 2025 the sons of Hemaraddy submitted the copy of the order passed by Hon'ble High Court of Karnataka Bench at Dharwad in RFA No.100154/2015 then only he came to know the present situation. That the compromise decree in O.S.No.158/2011 is not set aside. However the sons of Chouraddy and Hemaraddy filed Misc Petition No.4/2024 before Hon'ble Civil Judge and JMFC Navalgund challenging the compromise decree after laps of 9 years. Smt. Lakshamavva was the absolute owner in respect of 05 acres 17 guntas in R.S.No.41 is concerned, same is inherited by her. The plaintiff nor other defendants have no any title, interest and possession over the property. The plaintiffs have purposely not made his mother as party to the proceedings. If the said decree is executed it will affect his right, without him being the party to the proceedings no effective decree can be passed. The Final decree proceeding is the continuation of the suit. The Hon'ble court very well

adjudicate his interest. He is the necessary and proper party to the proceedings, without his being party to the proceedings the suit cannot be disposed off. To avoid the multiplicity of proceedings and to decide the suit judiciously, hence prayed to allow the application.

3. The counsel for petitioner has filed objections to the present I.A. contending that, the IA is neither maintainable in law nor on facts. That the proposed respondent has filed the I.A.No.7 collude with other respondents with an intention to drag on the matter. That if the proposed respondent claiming any right against petitioner he has fully liberty to file suppurate original proceedings but in this case he has no any right or liberty. That proposed respondent has not filed any application before O.S. and Appeal proceedings now intentionally filed this application to harass the petitioner and obstruct drawing final decree. That proposed respondent made baseless allegations and creating imaginary thinks only harass the petitioners. That the proposed respondent has sworn into a false affidavit knowing it to be false. That there is no specific pleading in affidavit

relating why the proposed respondent not filed application within period. That in fact the proposed respondent it is submitted that the no proper reasons have been assigned in the affidavit. That application filed by the proposed respondent with a malafide intention is a sole motive to harass and cause loss to the Petitioners. The application is filed at a belated stage and hence the same is not maintainable under law since, the same is time barred. If the application is allowed legal injury and great hardship will be caused to the petitioners. On the contrary there is no loss to the other side. Hence, prayed to reject the application.

4. The points that arise for my consideration is:-

1. Whether the proposed respondent No.5 is necessary party to the petition?
2. What Order ?
5. Heard arguments from both the side counsels.
6. My findings on the above points is 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 third party applicant by name Prakash S/o Seetaramraddy Mallareddy intends to get himself impleaded in the present petition on the ground that he is the son of one Smt. Laxmavva. The said Laxmavva is daughter of one Chauraddi. The said Chaureddi died leaving behind Venkaraddi, Ningaraddi, Leelavati and her mother as legal heirs. The said Venkaraddi died leaving behind his wife Shreedevi and son Abhishek i.e., the present petitioners. The petitioners had filed O.S.No.227/2012 on the file of this court for the partition and separate possession, which was dismissed. RFA No.100154/2015, filed before the Hon'ble High Court of Karnataka, Dharwad Bench came to be allowed and suit of plaintiff was decreed in which R.S.No.41 of Kalwad village was also subject matter. The mother of the petitioner had filed O.S.No. 154/2011 against her brother Hemaraddi and Chauraddi before Civil Judge Court Navalagund, which came to be decreed in which the mother of the present petitioner was allotted 10 acres 34 guntas of land which includes the share of

Chauraddi and said Chauraddi has taken Rs.3,00,000/- and relinquished his share in respect of the said land and the said property was not ancestral property and it is inherited by Chauraddi.

8. Admittedly, the present petition is filed by the petitioners against the respondent for the drawing up of final decree in terms of preliminary decree passed in RFA No.100154/2015. On perusal of the decree passed in O.S.No. 227/2012 which is produced by the present applicant herein. The said suit was filed by the petitioners herein for the relief of partition and separate possession in which R.S.No.41 of Kalwad village was also subject matter. However, the said suit came to be dismissed against which the petitioners herein had preferred RFA No. 100154/2015. The said appeal came to be allowed and the judgment and decree passed in O.S.No.227/2012 dated 04.03.2015 is set aside. It is also held that the decree passed in O.S.No.66/2023 is not binding on the present petitioners and the plaintiffs are entitled for partition and separate possession of 1/4th share in the properties involved in said suit. On going through the present petition and

Schedule A, Sl. No.7 property is shown as Block No.41, measuring 5 acres and 8 guntas and in the said survey number, the present applicant claims the father of the present petitioner No.2 and husband of petitioner No.1 had relinquished his share in compromise decree passed in O.S.No. 158/2011 in favour of mother of present applicant. On perusal of the compromise decree passed in O.S.No.158/2011 the said suit was filed by Smt. Lakshnavva W/o Seetaram Mallaraddi i.e. the mother of the third party applicant herein against one Chauraddi S/o Bhimaraddi, Neemaraddi S/o Beemareddy and Smt. Savakka Yallappa Neelaganar i.e., against her brother and sister. The said suit has been compromised between the parties and as per the said compromise, the plaintiff in said suit, i.e. Lakshnavva W/o Seetaram Mallaraddi has been allotted 10 acres 34 guntas of land in R.S.No. 41 of Kalavad village Taluka Navalgund.

9. The only objections raised for impelading the present respondent by the petitioners herein is that the proposed respondent has not filed any application before trial court or in appeal proceedings and only to harass and cause

obstruction for drawing final decree he has filed the present application and same is the dismissed. However as already discussed above, as per compromise decree passed in O.S.No.158/2011 the mother of the third party applicant herein by name Laxmavva has been allotted 10 acres 34 guntas of land in Sy. No.41 of Kalwad village and the said survey number is subject matter in O.S.No. 227/2017 as well as RFA No.100154/2015 in respect of which the present petition is filed to draw final decree. On going through the materials available on record and it appears that the present applicant is necessary party in the present petition for adjudicating the matter effectively. As such the present application deserves to be allowed. Accordingly above point is answered in the **affirmative.**

10. **Point No.2:** In view of findings on point No.1, this court proceeds to pass the following:

ORDER

I.A.No.VII filed by the counsel for
third party applicant under Order 1 Rule
10(2) R/w Sec.151 of CPC is hereby

allowed.

The present proposed applicant is ordered to be impleaded as party in the petition.

(Dictated to the AI Adalath, corrected by stenographer and verified by me, and then pronounced in the open court on this the 17th day of March 2026).

Sd/-
(Smt. Deepa G Manerkar)
II Addl. Senior Civil Judge and JMFC
Hubballi.