

**IN THE COURT OF SENIOR CIVIL JUDGE AND
JMFC, KALAGHATAGI**

PRESENT

**SRI. RAVINDRA L. HONOLE., B.A., LL.B. (Spl)
SENIOR CIVIL JUDGE & JMFC, KALAGHATAGI**

DATED THIS 18TH DAY OF JANUARY 2025
O.S.No.28/2022

PLAINTIFFS:

1. Poornima D/o Achuthrao Desai and
others.

(Sri. R.G.N., Adv)

Vs

DEFENDANTS:

1. Achuthrao Krishnarao Desai and others

(D-1 : Sri. V.R.P., Adv)

(D-2 (b to e): Sri. P.S.N., Adv)

(proposed D-4 & 5: Sri. M.G.C., Adv)

PARTIES TO IA NO.14

APPLICANTS:

1. Ramesh S/o Timmaji Desai and another

Vs

OPPONENTS:

1. Achuthrao Krishnarao Desai and others

ORDERS ON I.A 14

The applicants/proposed defendant No. 4 and 5 have filed this application u/o 1 rule 10 of CPC for impleading them as party to the suit.

1. This application is supported with affidavit of proposed defendant No.4 stating that his father and uncle Krishna Desai. The suit property was used by the defendant No.3 for performing pooja and using for meals who are priest. Deceased Timmaji entitled to share in Sy.No.6,8,73,75 and fallen the share as per award dated 26.11.1942 situated at Machapur village. The suit property was given for performing pooja of both the temples. Their father Timmaji also having share in the suit property. Therefore, he prays for impleading them as party to the suit.

2. The defendant No.2 (b) to (e) have filed objections denying the contents of application. It is submitted that the plaintiffs have not claimed share in respect of R.S. No.6,8,73 and 75 which are not subject matter of suit. Therefore, proposed defendants are not necessary or proper party to the suit. The application

filed by the plaintiff has been dismissed and thereafter at the instigation of plaintiff this application has been filed. There is no need to implead the proposed defendants. The application is liable to be dismissed. Hence, prays for rejection of application with cost.

3. Heard both counsels.

4. The following points arise for my consideration as under:

1. Whether the proposed defendant No.4 and 5 are the proper and necessary party for effective adjudication of the matter in dispute between parties?

2. What order?

5. My findings on the above points are:

POINT No.1 : In the affirmative

POINT No.2 : As per the final order for the following:

REASONS

6. **POINT No.1** : The plaintiffs have filed suit for partition and separate possession. The matter is posted for further cross of DW.2. At that time the proposed plaintiffs have filed this application. It is contended that the father of proposed defendants is having share in the suit properties.

7. I have gone through the evidence of DW.2. In the cross examination it is stated that Ramabai Timmaji has gifted suit property to the Madhvacharaya Ramachari Gudi in the year 1870. The said Ramabai is the mother of proposed defendant No.4 and 5. Therefore, in order to effective adjudication of the matter in contraversion between parties it is necessary to implead the proposed defendant No.4 and 5 as party to the suit. It is true that the application filed by the plaintiff proposed defendant No.4 and 5 has been dismissed and after dismissal of said application this application has been filed. There is not bar to implead the parties on their own application. Therefore, court is of the opinion that application filed by the proposed defendants is to be allowed and they are permitted to come on record. Accordingly, I answered point No.1 in the affirmative.

8. **POINT No.2**: As discussed above, I proceed to pass the following:

ORDER

The I.A.No. 14 filed by the proposed defendant No.4 and 5 is hereby allowed.

The proposed defendant No.4 and 5 are impleaded as defendant No. 4 and 5.

Plaintiff is hereby directed to carry out necessary amendment to the plaint and furnish amended plaint.

Call on: 25.01.2025.

(Dictated to stenographer directly on computer, typed by him, then corrected, printed and pronounced in the open court on this **18th day of January 2025**)

(R.L.Honole)
SR.CIVIL JUDGE & JMFC,
KALAGHATAGI