

**ORDER ON IA NO.XVI FILED BY THE
PROPOSED DEFENDANT NO.9 UNDER
ORDER 1 RULE 10 OF C.P.C.**

The proposed defendant No.9 has filed this I.A. by praying to implead him as defendant No.9 as prayed in the I.A.

2. The I.A. is supported by an affidavit filed by the proposed defendant No.9 by name Jayaram S/o Nagaraja by stating that, the plaintiffs have filed this suit for Partition and Separate Possession in respect of item No.1 and 2 of the suit property. The property item No.2 standing in the name of the defendant No.5 and he was in possession and enjoyment of the suit property. On

01.02.2016, the defendant No.5 entered into agreement of sale in respect of item No.2, and he has filed suit for specific performance of contract before this court in O.S.No.11/2020. He got to know about the pendency of this suit very recently, thus it is just and necessary to implead himself as a party to the suit.

3. On the other hand, the objections raised by the plaintiff is that, the I.A. is not maintainable since it is collusive in nature. It is submitted that, if the proposed defendant is not impleaded as additional defendant he will be put to irreparable loss and injury are not correct and tenable. The applicant is neither a necessary party nor proper party to the proceedings since the cause of action for the filing of the suit rightly raised against the present defendant. The appellant has not made out any case to implead him as party to the proceedings, no ground made out to allow the I.A. The applicant is not a party to the proceedings, hence sought for reject the I.A.

4. Heard arguments submitted by both sides. Perused the materials placed on record.

5. The following points that arise for my consideration are:

1. Whether the proposed defendant No.9 made out grounds to implead him as party as sought for in the I.A.?

2. What order?

6. My findings to the 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: The above suit is filed for partition and separate possession. Now, the matter is posted for evidence of plaintiff, at this stage the proposed defendant No.9 filed the above I.A. by seeking to implead himself as the defendant on the ground that, the suit is filed for the relief of partition and separate possession, among the defendants No.1 to 8, the defendant No.5 entered into agreement of sale in respect of item No.2 of the property. The item

No.2 of the property standing in the name of defendant No.5 and as per the agreement of sale dated: 01.02.2016 the defendant No.2 agreed to sell the item No.2 in favour of the proposed defendant No.9. Thus, he has filed a suit for specific performance of contract against the defendant No.5 in O.S.No.11/2020. He came to know about the pendency of suit very recently thus seeking for implead himself as the defendant No.9 otherwise he will be put to hardship. On the other hand, the objections raised by the plaintiff is that, the I.A. is not maintainable. The applicant cannot be impleaded, he is neither a proper party or a necessary party, he has no locus-standi to object the claim of the plaintiff, only to harass the plaintiff the I.A. is filed thus sought for reject the I.A.

8. The instant suit is filed for the relief of partition and separate possession in respect of item No.1 and 2 of the suit property. The proposed defendant No.9 filed the instant I.A. by seeking to implead himself as defendant No.9 on the ground that, the defendant

No.5 being the owner of item No.2 of the suit property entered into agreement of sale dated: 01.02.2016, and as per the said agreement the proposed defendant No.9 filed suit for specific performance of contract as against defendant No.9 before this court in O.S. No.11/2020. Very recently the proposed defendant No.9 got to know about the pendency of the suit. Thus, he is seeking for implead himself as defendant No.9 and if he is not impleaded he will be put to hardship and injury. It is well settled that, a purchaser of joint family property is generally considered as a proper party and to be impleaded in partition suit to avoid future litigation and to ensure equitable distribution. Thus, in view of above said discussion, at this stage this court is of the considered view that, the proposed defendant No.9 be impleadd as party in order to avoid multiplicity of proceedings, thus it leads me to hold that, the proposed defendant No.9 made out grounds to implead him as a party to the proceedings as prayed in the I.A. Accordingly, I answer above **Point No.1 in the Affirmativ.**

9. **POINT NO.2** : In the result, I proceed to pass the following :

ORDER

I.A. NoXVI filed under Order 1 Rule 10 of C.P.C. by the proposed defendant No.9 is hereby allowed.

There is no order as to costs.

Consequently, applicant is impleaded as defendant No.9.

Plaintiff to carryout necessary amendment.

Call on: 15.04.2026.

**SENIOR CIVIL JUDGE & J.M.F.C.,
ARAKALAGUD.**