

O.S.No.155/2023

ORDER ON IA NO.III

The applicant/plaintiff has filed this application under Order 1 Rule 10(2) of CPC. In the affidavit annexed to the application it is stated that, he has filed this suit seeking the relief of partition. The proposed defendants are running business in the suit land and they are paying rent to defendant No.1. Therefore, they are the necessary parties to be impleaded in this suit. The suit schedule properties are ancestral properties and the plaintiff has got share in the same. If the application is not allowed and permission is not accorded to bring the proposed defendant as defendant Nos. 5 to 11 the applicant would be put to heavy loss and injury. Hence, it is prayed to allow the application.

Though the notice is served on proposed defendant Nos. 6 to 11, they have not appeared before the court. Hence, they are placed absent.

On 05-02-2024 a memo came to be filed stating that, since the proposed defendant No.5 is not the necessary party, the plaintiff is not intending to proceed against the proposed defendant No.5. On the same day the plaintiff was permitted to delete proposed defendant No.5. Despite giving sufficient opportunity the

defendant No.1 to 3 have not filed objection to this application. Hence, objection taken as nil.

Heard argument perused the document on the record.

In this case, it is the contention of the plaintiff that the suit schedule properties are the ancestral properties and the proposed defendants are running business in the suit land and paying rent to defendant No.1. Whether the plaintiff has any share in the schedule property or not cannot be decided at this stage. However, this court is of the opinion that, if the proposed defendants are in the suit schedule property on rental basis, they become necessary parties to this suit for proper adjudication of the matter. Otherwise, there may be difficulties in final decree proceedings if at all the suit is decreed. Therefore, the plaintiff has made out grounds to allow the application. Accordingly, IA No.III is hereby allowed. The plaintiff is permitted to implead the proposed defendant Nos.6 to 11.

For amendment of plaint and furnishing amended plaint by 20/06/2024.

Addl Civil Judge and JMFC.,
Arakalgudu.