

KAHS600008252012



**IN THE COURT OF SENIOR CIVIL JUDGE
& J.M.F.C., CHANNARAYAPATNA**

PRESENT: ARUNA KUMARI A

B.A. (Law), L.L.B., L.L.M.,

**SENIOR CIVIL JUDGE
CHANNARAYAPATNA**

DATED ON THIS 31st DAY OF JULY 2025

O.S.No.12/2012

Plaintiffs : Smt.Yashodamma
V/s

Defendant : Smt.Kempamma and others

Parties to IA

Applicant/ : Sri.Kantharaju
Defendant No.5
V/s

Opponent/ : Sri.Javaregowda
Defendant No.3

ORDER

The applicant/5th defendant has filed instant application under Order 1 Rule 10(2) of CPC seeking transpose him as plaintiff No.2 in instant case.

2) In the affidavit it is stated that, suit is filed for declaration and permanent injunction with respect to suit schedule property. During pendency of the suit the plaintiff has sold out 2 acre 23 guntas out of 4 acres in favour of applicant by virtue of sale deed dated 13.04.2022. Hence the applicant has become absolute owner and in possession over that property and his father entered a registered sale agreement with respect to remaining property i.e., 1 acre 13 guntas with plaintiff and her family members on dated 25.03.2019. Hence, in view of possession over the 2 acres 23 guntas of property, hence he filed instant application by seeking to transpose him as plaintiff No.2.

3) On the contrary 3rd defendant filed objection and prayed to dismiss the application by submitting that the sale agreement and sale deed had taken place during pendency of the suit and contention of applicant is not sustainable.

4) Heard the arguments of the counsel for both sides and perused the materials on record.

5)The points that arise for my consideration are :

1. Whether is it just and necessary to transpose 5th defendant as plaintiff No.2 in instant case ?

2. What order?

6) My findings on the above points are as under:

Point No.1: In Negative

Point No.2: As per final order,
for the following:

-.REASONS:-

7) **Point No.1:-** The materials reflect that, the plaintiff has filed suit for declaration and permanent injunction with respect to suit schedule property. It is well settled principle of law that, according Order 1 Rule 10(2) of CPC speaks that, *very wide jurisdiction has been given to the court under Order 1, Rule 10(2), CPC, to transpose parties at any stage.*

8) But in the instant case as per averments of applicant he is defendant No.5 in instant original suit. The contention of applicant is that, he has to tender for cross examination. But the father of applicant by name Marigowda S/o Sannathammegowda has entered into registered sale agreement with plaintiff and her husband as well as children on dated 25.03.2019 with respect to 1 acre 13 guntas in Sy.No.106/1 property. It is also further contention that, applicant has purchased the 2 acres 23 guntas from plaintiff and her family members by virtue of sale deed dated 13.04.2022. Hence, he has filed instant application to transpose him as plaintiff No.2.

9) But the suit is of the year 2012, the transaction had taken place during pendency of the suit. More over suit is adjourned for cross examination of DW-7. I find that, at this juncture the application is not sustainable. More over entire

burden lies upon the plaintiff to prove whether she had ownership and possession over the suit schedule property on the date of filing of the suit. If it is proved she is entitled for relief. But this court finds that, DW-7 i.e., applicant is neither a proper nor necessary party in instant suit to adjudicate the question involved in instant suit. If application is allowed it is nothing but prolong of the case by that time parties would be put into greater hardship. Since the applicant has not established sufficient grounds to transpose him as plaintiff No.2, I answer **Point No.1 is in Negative.**

10) **Point No.2:** For the reasons discussed above, I proceed to pass the following;-

ORDER

Application which is filed by the applicant under Order 1 Rule 10(2) of CPC seeking transpose of applicant as plaintiff No.2 is hereby dismissed/rejected.

(Dictated to the stenographer directly on computer, typed by her, corrected and then pronounced by me in the open court on this 31st day of July 2025)

(ARUNA KUMARI A)
Senior Civil Judge and JMFC
Channarayapatna