

ORDERS ON APPLICATION FILED UNDER ORDER 1 RULE 10(2)
OF THE CODE BY THE PLAINTIFF.

The Plaintiff has filed the present application under Order 1 Rule 10(2) to implead the Government and its functionaries and it is contended that the Defendant by giving a false genealogy has sought to claim the amount in respect of the ancestral properties in Sy.No.151/2 and 128/8 and that the said aspect was noticed only recently and as such the application requires to be allowed. The learned AGP who entered appearance for the proposed Defendants submitted that he has no objections to the application being allowed.

2. Having heard Sri.AS learned Counsel for the Plaintiffs, the point that arises for my consideration is:

1. Whether the proposed Defendants are necessary/proper parties to the suit?

3. My answer to aforesaid point is in the ***Affirmative*** for

the following:

REASONS

4. The suit is one for partition and while deciding the entitlement of the family members to a share in the family properties it is not necessary that strangers to the family are arrayed as parties to the suit. This is so because a pre-existing right of the family members is what would be adjudicated in a suit for partition. Therefore the Government, strictly speaking, would have little role in the adjudication of the aforesaid aspect. That said, it is the contention of the Plaintiffs that since the land has been acquired and compensation awarded, the entitlement of the parties to the same can be better appreciated if the acquiring authority, viz., the proposed Defendants are brought on record. Therefore though not as a necessary party, the proposed Defendants can be impleaded as proper parties to the suit. The preliminary decree can be drawn even in the absence of the proposed Defendants.

However the entire acquisition proceedings could be appraised better in the presence of the proposed Defendants. Hence the following:

ORDER

The Application filed under Order 1 Rule 10(2) of the Code is allowed. The Plaintiffs shall amend the plaint and file amended plaint on or before 16.11.2023. Call on 16.11.2023.

PRAVEEN RJS
CIVIL JUDGE., HNPURA