



IN THE COURT OF THE CIVIL JUDGE AND
JMFC, AT: BYADGI

Present: **Sri. Suresh Wagganavar, MA. LL.B., (Spl)**

Civil Judge & JMFC, Byadgi

Dated this the 25th day of June-2024

Original Suit No.41/2018

1. Smt.Gangavva W/o Shivappa Kodad
R/o: Mattur, Tq: Byadgi.

(By Sri.S.H.G, Advocate)

.....PLAINTIFF:

V/S

4. Sri.Prakash S/o Veerupakshappa Mamani
R/o: Byadgi, Tq: Byadgi, Dist: Haveri
and others.

(By Sri.C.P.D., Advocate for D-1 to 3)

(By Sri.B.G.H.,Advocate for D-4)

.... DEFENDANTS:

PARTIES TO THE IA NO.I

4. Sri.Prakash S/o Veerupakshappa Mamani.

.....APPLICANTS/DEFENDANTS:

V/S

Smt.Gangavva W/o Shivappa Kodad



R/o: Mattur, Tq: Byadgi.

....OPPONENT/PLAINTIFF:

1. Sri.Hanumantappa Nagappa Olekar
and others.

....DEFENDANTS:

ORDER ON I.A.No.X

1. This application filed by the defendant No.4 U/O XIV Rule 5 R/W Sec.151 of CPC, seeking prayer to frame the additional issues as follows:

1. Whether the defendant No.4 proves that the suit of the plaintiff's is bad for non joinder of necessary parties?
 2. Whether the defendant No.4 proves that the suit of the plaintiff's is bad for non joinder of necessary properties?
- 2.** In the affidavit defendant No.4 has stated that, the plaintiff has filed suit for partition and separate possession against the defendants. The defendant No.4 has filed written statement by denying the all averments of plaint.



The defendant No.4 has specifically contended that the RS.No.129, measuring 3 acres, 24 guntas was purchased by the Narendra Ninganagouda Patil and RS.No.37, measuring 3 acres, was purchased by the Annapurnavva Ramanna Hubballi. The above said persons are necessary parties in the suit. The RS.No.58, was not made a suit property. Hence, both these issues are very much essential to decide the controversy in between the parties and that, if the said application is not allowed, they will be put into great hardship and loss and on the other hand, if the said application is allowed, no hardship or injury will be caused to the other side. Hence, prays to allow the application.

3. Per contra, the plaintiff did not filed objection.

4. Heard from plaintiff side, the points that would arise for my consideration are:

1. Whether additional issues sought to be framed by defendants are necessary for adjudication of the matter in dispute?



2. What order?

5. My answers to the above points are as under:

Point No.1: In the affirmative and

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

: REASONS:

6. **Point No.1:-** The plaintiff has filed the suit for partition and separate possession against defendants. The defendants have filed written statement. After filing the written statement this court framed issues. On perusal of entire written statement of defendant No.4 it reveals that, the defendant No.4 has specifically contended that the RS.No.129, measuring 3 acres, 24 guntas was purchased by the Narendra Ninganagouda Patil and RS.No.37, measuring 3 acres, was purchased by the Annapurnavva Ramanna Hubballi. The above said persons are necessary parties in the suit. The RS.No.58, was not made a suit property. Hence, both these issues are very much essential to decide the controversy in between the parties and that, if



the said application is not allowed, they will be put into great hardship and loss and on the other hand, if the said application is allowed, no hardship or injury will be caused to the other side. Such being the case, to determine the rights contention of those pleading is necessary for adjudication of the matter. That the defendant No.4 has alleged materials of proposition of fact. The para No.7 to 9 of written statement prove the same the additional issue is required to adjudicate the matter. Hence, I answer the point No.1 in the affirmative.

7. Point No.2:- In view of the above said reasons on point No.1, I proceed to pass the following:

ORDER

I.A. No.I filed by the defendant No.4
U/O XIV Rule 5 R/W Sec.151 of CPC, is
hereby allowed.

Additional Issue Nos.1 and 2 are
framed as follows:

1. Whether the defendant No.4 proves



that the suit of the plaintiff's is hit by
non joinder of necessary parties?

2. Whether the defendant No.4
proves that the suit of the plaintiff is
hit by non-inclusion of all family
properties?

No order as to cost.

(Dictated to the stenographer directly on computer, then corrected, signed
and then pronounced by me in the open court on this the **25th day of June-2024**)

(Suresh Wagganavar)
Civil Judge & JMFC.,
Byadgi.