



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

Present: **Sri Suresh Wagganavar, MA. LL.B., (Spl)**  
Civil Judge & JMFC, Byadgi.

**Dated this the 18<sup>th</sup> day of February, 2025**

**Original Suit No.191/2019**

1. Smt.Vijayalakshmi W/o Gadigeppa Totagera  
and another one.

**(By Sri.S.N.B., Advocate)**

**....Plaintiff**

**V/S**

1. Sri.Channabasappa S/o Basappa Totagera  
and others.

**(By Sri.R.C.S., Advocate for D-1)**  
**(By Smt.B.S.K., Advocate for D-2 to 4)**

**....Defendants**

**PARTIES TO THE IA No.IV**

1. Sri Ramesh S/o Chanabasappa Totagera  
Age: 34 years, Occ: Agriculture,  
R/o: Mattur, Tq: Byadgi, Dist: Haveri.



2. Sri Kallesh S/o Chanabasappa Totagera  
Age: 30 years, Occ: Agriculture,  
R/o: Mattur, Tq: Byadgi, Dist: Haveri.

**.... Applicants/proposed defendants  
VS**

1. Smt.Vijayalakshmi W/o Gadigeppa Totagera  
and another one.

**.... Opponents/Plaintiffs**

**ORDER ON IA.No.IV**

This I.A.No.IV is filed by the proposed defendant No.5 and 6 Under order 1 Rule 10(2), R/w Sec.151 of CPC, with a prayer to implead proposed defendant No.5 and 6 as defendant No.5 and 6 in the interest of justice & equity.

2. In the affidavit the proposed defendant No.5 has stated that the plaintiffs have filed suit for partition and separate possession against the defendants. The suit schedule 'A' Sl.No.3 property RS.No.55/1+2/2, measuring 4 acres, 13 guntas of Mattur village of Byadgi Taluk purchased by



propositus Basappa from his own earnings from its first owner by name Shivappa Honnappa Harogeppa for consideration of Rs.2,000/- on 07.05.1976. The said property is the self acquired property of Basappa S/o Gulappa Totagera. The plaintiffs and other defendants have no right, title and interest over the suit schedule property. The said Basappa was executed the Will deed infavour of proposed defendant No.5 and 6. Hence, prays to allow the application.

**3.** Per contra, the plaintiffs have filed objection to the present application. Wherein it is contended that, the affidavit and application are all false and frivolous. The plaintiffs have filed this suit on 21.09.2019. The defendant No.1 has appeared on 18.11.2019. The proposed defendants have not claim their rights within three years. Hence, the application filed by the proposed defendant No.5 and 6 is hit by law of limitation. The proposed defendant No.5 and 6 have



created the Will deed and filed this application. The name entry of proposed defendant No.5 and 6 was cancelled by the Tahasildar Byadgi. Hence, prays to reject the application.

4. Heard from both side, the point that would arise for my consideration is;

1. Whether proposed defendant No.5 and 6 are necessary parties to the adjudication of the matter in dispute?

2. What order?

5. My answer to the above points are as under ;

Point No1 : In the Affirmative and

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

**// REASONS //**

6. **Point No.1:-** The whole facts of the IA is already narrated at the inception of this order. Therefore, repetition of the same avoided here.

7. It is Order 1 of the CPC, which deals with parties to the suit. It deals with necessity of bringing parties to the suit for



proper and effectual adjudication of the matter in dispute. Order 1 rule 10 of CPC, enables the court to add any person as party at any stage of the proceedings, if the person whose presence before the court is necessary in order to enable the court effectively and completely adjudication upon and settled all the questions involved in the suit. Avoidance of multiplicity of proceedings is also one of the objects of the said provisions.

**8.** It is well settled principle of law that basically it is for the plaintiffs in a suit to identify the parties against whom they have any grievance and to implead them as defendants in the suit filed for necessary relief. In this case preliminary the plaintiffs have filed suit for partition and separate possession against the defendant No.1 to 4. The serious contention of the proposed defendant No.5 and 6 is that the said Basappa had executed the Will deed in their favour on suit schedule Sl.No.3 property. The grievance and the claim



against the plaintiffs and other defendants is involved in this case. Further, it is the duty of this court to ensure that if for deciding the real matter in dispute, a person is necessary party the court can order such person could be impleaded. This court consider two aspects 1) there must be a right to some relief against such person in respect of controversy involved in the proceedings. 2) No effective decree can be passed in the absence of such party. Hence, in this suit the proposed defendant No.5 and 6 are necessary in the suit and in the absence of proposed defendant No.5 and 6 no effective decree can be passed. Hence, I answer the above **Point No.1 in the Affirmative.**

**9. Point No.2:-** Hence, for the aforesaid reasons, I proceed to pass the following;

**//O R D E R//**

I.A.No.IV filed by the proposed defendants U/o.1 Rule 10(2), R/w Sec.151 of CPC, is hereby allowed.



The proposed defendant No.5 and  
6 arrayed as defendant No.5 and 6.

Plaintiffs are directed to amend  
the plaint as per I.A.No.IV.

(Dictated to the Stenographer directly on computer, after typed by her,  
corrected by me and then pronounced in the open court on this the **18<sup>th</sup> day of  
February-2025**).

Sd/-  
**Civil Judge and JMFC.,  
Byadgi.**