

ORDER ON IA No.7 & 8

The plaintiff has filed IA No.7 under order 1 Rule 10(2) of CPC for implead the respondents as defendants.

2. The plaintiff has filed IA No.8 Under order 6 Rule 17 of CPC for seeking permission to carry out the amendment in the plaint.

3. The plaintiff by name Shivappa S/o Halappa Danannavar has sworn in an affidavit accompanying with IA No.7 & 8, wherein he categorically stated that he has filed this suit for partition and separate possession. The suit schedule properties are ancestral properties. During the time of filing of this suit by over sightly left some persons. The respondents are also legal heirs of Gangavva W/o Mahadevappa Kadlikalappanavar, who is the daughter of Dyamavva and legal heirs of Shantavva W/o Ningappa Kerur who is the daughter of Halappa and respondent No.12 who is the daughter of Sannirappa S/o Halappa and respondent 13-14 are the children of Halappa. Therefore they are necessary party to the suit. Hence, prayed to implead them

as defendants and permit him to carry out the amendment as per proposed amendment.

4. After filing of application this court issued notice to the respondent, some respondents appeared through CBP advocate and some of the respondents not appeared in spite of service of notice. IN spite of sufficient time has been given CBP advocate has not filed objection to these applications.

5. Heard plaintiff counsel and perused the materials on record.

6. The suit is for partition and separate possession. As per contents of the affidavit accompanying with IA, it appears that the respondents are also having share in the suit schedule properties, without impleading the respondents the court cannot pass effective decree. It is compulsion of law that in a suit for partition and separate possession all co-parceners of the family or all sharers shall be party to the suit. Therefore, the respondents are necessary parties. Hence, it is necessary to allow the both applications. The

plaintiff has filed IA NO.8 before commencement of trial. Hence, IA filed under order 6 rule 17 can be allowed. If allow the IA No.8 nature of suit will not change. Hence, I proceed to pass the following;

ORDER

IA No.7 filed under order 1 Rule 10(2) of CPC is hereby allowed.

No order as to cost.

IA No.8 filed under order 6 rule 17 of CPC is hereby allowed.

No order as to cost.

The plaintiff is hereby permitted to carry out amendment in the plaint as per rule 18.

For amendment of amended plaint and steps.

Call on 04.07.2022.

CJ & JMFC., Savanur.

