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IN THE COURT OF CIVIL JUDGE AND J.M.F.C
AT SHIGGAON

Present: Ashwinichandrakanth
B.Sc., LL.B.
Civil Judge and J.M.F.C.,
Shiggaon.

DATED 25th DAY OF JULY, 2026

EXECUTION NO.2/2014

Rajashekhar S/o. Chanabasappa Mantrodi,
Age: 37 years, Occ: Agriculture,
R/o: Hospet, Tq: Hangal,
Dist: Haveri.

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

.....Decree-Holder:

V/s.

Chandansingh S/o. Bhagatsingh Rathod,
Age: 51 years, Occ: Private Business,
R/o: Lekkikoppa, Tq: Shiggaon, Dist.Haveri.

(By Sri.J.V., Advocate)

.... Judgment-Debtor:

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PARTIES TO THE IA NO.VI

Chandansingh S/o. Bhagatsingh Rathod
(Since deceased) by his LR's

Mrs.Arпита A.M.

.... Applicants/ LR's of Judgment Debtor

V/s.

Rajashekhar S/o. Chanabasappa Mantrodi

.... Opponent/Decree-Holder

ORDER ON IA.NO.VI

This I.A No.VI is filed by the applicant under Order 1 Rule 10(2) R/w Section 151 of CPC with a prayer to implead herein as the supplemental judgment debtor No.1(a) in the interest of justice & equity.

Person Sought to be impleaded as Supplemental Judgment Debtor No.1(a).

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2. In the affidavit the proposed applicant stated that, Jdr died on 25.12.2023 leaving behind the applicant as his foster daughter as his sole legal heirs and the applicant has inherited the property by virtue of registered 'Will' dated 13.12.2021 which is probate as per the probate passed by the Hon'ble 5th Additional District and Sessions Judge Hassan, on the file of P & Sc. No.84/2024 dated 01.02.2025. Further applicant stated that, Dhr of his petition has obtained exparte Decree based on the fraudulent and forged the agreement for sale by furnishing the wrong address of deceased Jdr. Further submitted that during his life time Jdr had filed criminal complaint against the Dhr with respect to this case in CC No.1549/2021 on the file of Civil Judge and JMFC., Shiggaon. Further applicant submitted that she has filed application to implead herself as legal heirs of deceased Jdr in Civil Misc. No.8/2017 which is filed by Jdr to set aside the exparte decree. Further submitted that Dhr is aware about the death of Jdr had not taken any steps to bring the legal heirs on record and any orders passed without

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impleading legal heirs of deceased Jdr is nullity. Further submitted that the Advocate for Jdr filed memo and reported the death of Jdr and also furnished the probate order in OS No.84/2024. Further submitted that the only memo dated 13.02.2016 is noted and memo dated 24.11.2025 and 25.02.2026 are not noted in Order-Sheet. Further submitted that it is the duty of the Dhr to take necessary steps and to implead legal representative of deceased Jdr. Further submitted that applicant has inherited right title interest of the Jdr in execution schedule property and no effective order can be passed without impleading the applicant. Hence, prays to allow the application.

3. Per contra the Dhr has filed objection to this IA No.VI and submitted that they have not obtained the Decree by playing any kind of fraud. Further objected that it is false to allege that any order without impleading the legal heirs Jdr is nullity are not true and correct. Further submitted that as per the affidavit of the applicant Jdr has executed the 'Will' and died on



25.12.2023 and the Advocate for Jdr has not reported the death and recently intimated the same to the Court while matter is reached finality. Further submitted that the said execution petition is pending for more than 12 years. Further submitted that, alleged 'Will' is not executed by the deceased Jdr and the said documents is created and fraudulently obtained the probate from the Court. Dhr further submitted that if the applicant is the foster daughter of deceased Jdr she has no rights to implead as party to this execution on the ground that in life time of Jdr he has executed agreement of sale infavour of Dhr. Therefore, prays to reject the application with costs.

4. Heard on both sides. During the course of arguments Jdr counsel has relied on decision Civil Appeal No.10521 of 2013: Pruthvirajsinh Nodhubha Jadeja (D) by LR's V/s. Jayeshkumar Chhakaddas Shah and Others.

The point that would arise for my consideration is as follows:



P O I N T S

1. Whether the applicant is necessary party to the adjudication of the matter in dispute?
2. What order?
5. The findings on the above points are as hereunder:

Point No.1: In the Affirmative

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

R E A S O N S

6. **Point No.1:** 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.



7. It is well settled principle of law that basically it is for the plaintiff in a suit to identify the parties against whom he has any grievance and to implead them as defendants in the suit filed for necessary relief. This is the execution petition filed by the Dhr against Jdr for execution of the Decree passed in OS No.143/2009. Here in this case the applicant has filed present application by stating that she is the foster daughter of Jdr as his sole legal heir and she has inherited the present suit property by virtue of registered 'Will' dated 13.12.2021 and probate on the file of P&Sc.No.84/2024. Further the applicant stated that the Dhr has obtained exparte Decree by playing fraud against the Jdr. Therefore, Jdr during his life time filed criminal complaint against the Dhr. Further submitted that without impleading the legal heirs of deceased Jdr any orders passed in this petition become nullity.

8. Per contra, Dhr submitted that the applicant is the foster daughter of the deceased Jdr and he has no rights to implead as the party to this execution



petition. Further submitted that Jdr has executed the agreement of sale infavour of Dhr during his life time. Hence, it is not necessary to implead the present applicant.

9. Here in this petition Jdr seeking for performance of specific contract. Here in this case applicant has produced the probate order. On perusal of the probate order the present suit schedule property is also involved in the probate order under such a circumstances without impleading the applicant no valid order can be passed or execution of sale deed can be done. Jdr counsel has furnished the RTC extract of suit property which stands in the name of Jdr No.1(a) by virtue of 'Will'. Therefore, it is necessary to implead the applicant in this petition. Further the applicant has stated that Jdr was died on 25.12.2023 since that day to till filing the memo dated 25.02.2026 they have not intimated the death of Jdr to this Court and further the delay in filing present application as objected by the Dhr can be compensated by imposing cost. Therefore, this Court is of the opinion to implead the present

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applicant as legal representative or supplemental Jdr No.1(a). Hence, I answer the above **Point No.1 in the Affirmative.**

10. **Point No.2:** In view of the above discussion, this court proceeds to pass the following:

ORDER

IA No.VI filed by proposed Jdr No.1(a) under Order 1 Rule 10(2) R/ w Sec.151 of CPC is hereby allowed with cost of Rs.1,000/-.

The applicant is arrayed as Jdr No.1(a).

Dhr is directed to amend the petition as per IA No.VI.

(Dictated to the stenographer, directly typed by her, corrected, and then pronounced by me in the open court on this the **25th day of July 2026**).

Sd/-
(ASHWINICHANDRAKANTH)
Civil Judge & JMFC,
Shiggaon.

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