

KAKB210001242023



**IN THE COURT OF SENIOR CIVIL JUDGE AT ALAND,
KALABURAGI DISTRICT.**

:PRESENT:

SRI. S.M. ARUTAGI
B.com. LLB., (Spl)
SENIOR CIVIL JUDGE, ALAND.

O.S.No.52/2023

DATED THIS THE 1ST DAY OF FEBRUARY - 2025

Plaintiff: Geeta W/o. Manikraya Mahur.

V/s

Defendants: Basavaraj @ Basavannappa and Another.

**PARTIES TO THE APPLICATION****Applicant/
Defendant No.1**

Basavaraj @ Basavannappa
S/o. Dharmarao Malipatil,
Aged: 63 years, Occ: Agriculture,
R/o. Degaon village, Taluka Aland,
District Kalaburagi.
Aadhaar No.2268 9628 4315.

(By Sri. S. Y. Udagi, Advocate)

Vs.

**Opponent/
Plaintiff**

Geeta W/o. Manikraya Mahur,
Aged: 33 years, Occ: Agriculture,
R/o. 1 – 73, Jewargi Road, Near
Hanuman Temple, at Kotnoor,
Nandikur Gram Panchayat,
Taluka and District Kalaburagi.
Having Aadhaar No.9293 0450 2975.

(By Sri. B. A. Deshpande, Advocate)

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ORDER ON APPLICATION FILED U/O I RULE 10(2)
CPC BY THE DEFENDANT NO.1.

This is an application filed by the defendant No.1 U/O., 1 Rule 10(2) of CPC to implead the proposed defendant No.3 as necessary party to the suit by allowing the application in the interest of justice and equity.

2. In the affidavit annexed to the application, it is stated that he adopted one boy by name Shekhar S/o. Shivaraj Biradar of Degaon village in the year 2010 and he is adoptive father of the said Shekhar and the adoptive son is proper and necessary party to the suit and without impleading him as a party to the suit, the matter in hand cannot be adjudicated effectively and properly. On these grounds sought for allow the application.



3. On the other hand the counsel for plaintiff files detailed objections to the application contending that the present application is not maintainable in the eye of law. It is further contended that the defendants have no way concerned about the maintainability of the suit and the plaintiff is the master of her case. The defendants in order to prolong the matter have filed this false application to deprive the right of the plaintiff over the suit property. The proposed defendant is not necessary party to the present suit and he claims adoptive son of defendant No.1 and during the life time of adoptive father, the adoptive son cannot claim any right over in the suit property and the defendant No.1 has filed this present application without having any right over the suit property and defendant No.1 has filed this present application in order to drag on



the matter and to waste and to spoil the precious time of this court and moreover, the counsel for the defendant No.1 not made any attempt to cross examination of PW1 and by filing one or another application protracting the proceedings of this court. On these grounds prayed for dismissal of application with costs.

4. Heard arguments on both side.

5. On the basis of applications and objection, the following points arise for my consideration:-

1) *Whether the defendant No.1 has made out sufficient grounds to allow his application?*

2) *What order?*

6. My answers to the above points are as follows:-

Point No.1 : In the Negative



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

REASONS

7. **Point No. 1:** It is pertinent to note that the plaintiff has filed this suit for partition and separate possession and declaration and permanent injunction and other reliefs with respect tot eh suit property.
8. When the matter was posted for further chief of PW1, the defendant No.1 has filed the present application to implead the defendant No.3 as proper and necessary parties to the suit.
9. On meticulously perusal of entire documents and pleadings of the parties to the suit, though the defendant No.1 has taken a contention in para No.11 of in his written statement that he has adopted son by name



Shekhar S/o. Shivaraj Biradar in the year 2010 and he is necessary party to the suit and without impleading him as a party to the suit. no effective and proper decree has to be passed in the absence of the proposed defendant No.3. Though, the defendant No.1 has taken above contention, but in order to prove the said adoption he has not produced any deed of adoption and even no single scrape of document has been produced before the court about adoption of proposed defendant No.3 and even the said proposed defendant No.3 has not come before this court and said that he is adoptive son of defendant No.1. So in the absence of cogent and relevant document, it cannot be believed that the defendant No.1 has adopted the said proposed defendant No.3 in accordance with law. At this juncture I would like to rely upon a decision reported in



(2013) 2 Supreme Court Cases (Civ) 658 in the case of Ayaaubkhan Noorkhan Pathan V/s State of Maharashtra and Others wherein his lordships has held that

“Person aggrieved *It is settled legal proposition that a stranger cannot be permitted to meddle in any proceeding, unless he satisfies the authority/court, that he falls within the category of aggrieved persons. Only a person who has suffered, or suffers from legal injury can challenge the act/action/order etc. in a court of law”*

10. In the instant case also, the proposed defendant No.3 is stranger to the case and he cannot be permitted to meddle in any proceeding, unless he satisfies the authority/court, that he falls within the category of aggrieved persons. Only a person who has suffered, or



suffers from legal injury can challenge the act/action/order etc. in a court of law. In this case the proposed defendant No.3 is not aggrieved person and even as I have already held that the defendant No.1 or proposed defendant No.3 have not produced any document to show the adoption and in the absence of cogent and material documents, the application cannot be allowed. The defendant No.1 in order to protract the proceedings and to waste and spoil the precious time of this court has filed this false application which is not maintainable. Hence, the ratio of the above decision aptly applicable to the present case in hand. The defendant No.1 has not made out any sufficient grounds to allow his application. Accordingly, I answer **point No.1 in negative.**



11. **POINT NO.2:-** For the above said reasons, I proceed to pass the following;

ORDER

Interim Application filed by the
defendant No.1 U/O., 1 Rule 10(2) of
CPC, dated:14-03-2024 is hereby rejected
with costs.

(Dictated to the Stenographer, transcribed by him, then corrected by me and pronounced in the open court on this the 1st day of February 2025).

(S.M. ARUTAGI)
Senior Civil Judge,
Aland

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