

KAKB220012762025



IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC
AT ALAND

PRESENT

SMT.SUMAN CHITARGI, B.COM., L.L.M.,
PRL.CIVIL JUDGE & JMFC
ALAND

DATED THIS THE 10TH DAY OF DECEMBER - 2025

ORIGINAL SUIT No.17/2025

PLAINTIFFS : Baburao.

-Vs.-

DEFENDANT: Gunderao.

I.A.I

PROPOSED DEFENDANT NO.2/THIRD PARTY

APPLICANT:

Prashant S/o Bhojaraj Patil,

Aged: 37 years, Occ: Agriculture,

R/o.Bhusnoor Tq: Aland, Dist: Kalaburagi.

(By Smt.J.N.H., Advocate)



-Vs.-

PLAINTIFF/S/OPPONENT/S:

Baburao S/o Siddanna Patil,
Age: 80 years, Occ: Agriculture,
R/o at village Bhusnoor, Tq: Aland,
Dist: Kalaburagi.

(By Sri.D.H.H, Advocate)

ORDER ON I.A.No.I

The proposed defendant No.2 has filed this application Under Order I Rule 10 Read with Section 151 of CPC seeking to implead petitioner as proposed defendant No.2 in this case for deciding the equitable relief for parties in the above said case.

The proposed defendant No.2:

Prashant S/o Bhojaraj Patil,
Aged: 37 years, Occ: Agriculture,
R/o.Bhusnoor Tq: Aland, Dist: Kalaburagi.

2. In the affidavit annexed to the application, wherein it is contended that, the proposed defendant No.2 is the closely related to the plaintiff and defendant as Bahuband i.e., Anna



Tammaki. The present suit filed by the plaintiff against the defendant Gunderao is a collusive suit and it has been got filed by the Gunderao only with a purpose to get read of the effect of the decree got passed by Gunderao the defendant as a plaintiff in this court in O.S.No.64/2023 i.e., Gunderao V/s Prashant and said suit was decreed on 14.12.2024 by way of compromise. It has been stated in this plaint in para No.5 as *“For the purpose of cause loss to the plaintiff the defendant has filed false and baseless suit for perpetual injunction against one Prashant S/o Bhojaraj Patil of village Bhusnoor bearing O.S.No.65/2023 before the Prl. Civil Judge Court at Aland and with malafted intent in that case the plaintiff has not made party to the suit though the plaintiff is having his half share over the suit property.”* In this suit plaintiff prayed for prayer *“That the terms of the compromise decree in O.S.No.65/2023 dated: 14.12.2024 is not binding upon the plaintiff to the extent of his half share towards the southern portion of the suit schedule “A”.* This prayer shows that the



decree which was passed in between present defendant Gunderao and the 3rd party petitioner Prashant is sought to be set aside but conspicuously the third party Prashant who was defendant in O.S.No.65/2023 is not made as party to the present suit and obviously unless a person who is a party to the said decree the decree cannot be set aside. In of above facts the 3rd party petitioner who was defendant of O.S.No.65/2023 is a necessary party and property party.

3. Further stated that, if the defendant of this suit Gunderao appears and states that he has no objection to decree the suit and exactly it is the said intent with this suit has been got filed by the Gunderao himself and therefore the present suit is collusive suit. Unless this 3rd party petitioner is before the court no effective adjudication can be made in this suit and the previous decree challenged in this suit which is binding on the Gunderao and even Baburao cannot be set aside unless opportunity is given to the 3rd party to put his case. If the 3rd party petitioner is not added as party in



this suit, his rights will be affected and the rights which are accrued to him by decree in O.S.No.65/2023 will be wiped out and will be put to irreparable loss. Hence, prays to allow the application.

4. The said application is opposed by the plaintiff by way of filing detailed objection to the said I.A by contending that, at the outset third party petition for impleading as defendant No.2 is not tenable in the eye of law because without impleading third party in partition suit, the suit can be effectively adjudicated and the third party is not necessary and proper party to suit. Further contended that, the plaintiff has filed the suit for the relief of partition and separate possession against his uncle the defendant and third party is not at all concerned to the suit property by any manner whatsoever and plaintiff is not claiming right over any property of third party. The third party is not concerned to moiety share of the plaintiff with respect to the suit property. Hence he has no any right over the half share of the plaintiff.



On these grounds prayed to reject the petition with heavy costs.

5. Based upon the above said respective contentions of the parties, the following points would arise for consideration of the Court:

***1. Whether the proposed defendant No.2
has made out a grounds to allow the
application?***

2. If so, what order?

6. Heard, perused and on perusal of the records, the court proceeds to answer aforesaid points are as under:

Point No.1 : In the affirmative

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

REASONS

7. **POINT NO.1:-** On perusal of the records, it reveals that, the plaintiff had filed present suit seeking relief of Partition and Separate Possession against the defendant



seeking half share in the suit property. During the pendency of the suit, the proposed petitioner has filed the present interim application seeking impleading him as defendant No.2.

8. It is important to note that, Order 1 Rule 10 of the CPC enables the Court to add any person as a party at any stage of the proceedings, if the person whose presence in court is necessary in order to enable the court to effectively and completely adjudicate upon and settle all the questions involved in the suit.

9. It is important to note that present suit is for partition and separate possession and presence of third party is not necessary to disposal of the case unless the third party shows that he has right over the suit property. In order to show right over the suit property, the third party applicant relied on the copy of compromise decree passed in O.S.No.65/2023. I have gone through the said copy of the



compromise decree. On perusal of the same goes to show that, the plaintiff and defendant in the said case has compromised as follows:

“That now the plaintiff and defendants both are agreed and undertakes that both are not having any rights to take up any kind of construction over the above mentioned open space and said open space is to be kept open as it is.”

Therefore, at this stage, it reveals that the defendant has interest/right over the suit property. Therefore, mere impleading proposed defendant will not cause prejudice to the plaintiff. Hence, in order to avoid multiplicity of proceedings and to protect the interest of both parties it is just and necessary to allow the application. **Hence I answer point No.1 in the Affirmative.**

10. **POINT No.2:-** In view of the aforesaid findings on point No.1, the court proceeds to pass the following:

**ORDER**

I.A.No.I filed by the proposed defendant under Order 1 Rule 10 Read with Section 151 of CPC is hereby allowed.

Consequently, the proposed petitioner/defendant is brought on record as defendant No.2.

Under the circumstances, there shall be no order as to costs.

Plaintiff is directed to carryout necessary amendment.

(Dictated to the Stenographer on Computer directly, typed by him, Order corrected and signed by me, then pronounced by me in the Open Court on this the 10th day of December - 2025)

Dated: 10.12.2025.

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**(SUMAN CHITARGI)
PRL.CIVIL JUDGE & JMFC
ALAND**

Dictated on : 10.12.2025.
Checked on : 10.12.2025.
Signed on : 10.12.2025.

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**(SUMAN CHITARGI)
PRL.CIVIL JUDGE & JMFC
ALAND**

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