

ORDER ON IA NO-5 FILED UNDER ORDER 1 RULE 10 OF  
CPC.

1.	Provision under which the application is filed	Order 1 Rule 10 of CPC
2.	Relief sought for	For striking out the name of the defendant No-9 and 10 from the suit.
3.	The date on which the application is filed	22-07-2025
4.	Number of the application	I.A.No-5
5.	The date on which the objections are filed by different opponents	23-10-2025.
6.	The date on which the orders were passed on the said application	15-12-2025.

The defendant No-9 and 10 have filed the present application for striking out the name of the defendant No-9 and 10 from the present suit.

2. The defendant No-9 and 10 have contended that, the Mallayya and Siddaramayya are the brothers. The said Mallayya and Siddaramayya partitioned about 40 years back. The defendant No-9 and 10 are the children of the Mallayya. The defendant No-1 to 8 and the plaintiff are the legal representatives of the Siddaramayya. The plaintiff is claiming his share in the property belonging to the Siddaramayya. The defendant No-9 and 10 are not the necessary parties to the present suit. The suit property bearing survey number 60 is having 3 hissas. The plaintiff is claiming his share in the hissa No-2 and 3. The defendant No-9 and 10 are the owners and in possession of survey number 60/1 measuring 7 acre 36 gunta of land. The plaintiff has got a temporary injunction order even with respect to survey number 60/1 belonging to the defendant No-9 and 10 by showing the suit property as

entire survey number 60/\* measuring 15 acre 14 gunta of land. The father of the defendant No-9 and 10 by name Mallayya was died in the year 2024. The defendant No-9 and 10 are trying to mutate their name to the survey number 60/1 land. On the said material grounds the defendant No-9 and 10 have prayed for allowing the present application.

3. The plaintiff has filed objections to the present application by denying the grounds of the application. The plaintiff has contended that, there is no any partition taken place between the plaintiff and his uncles and the defendant No-9 and 10. The defendant No-9 and 10 are necessary parties in the present suit. On the said material grounds the plaintiff has prayed for rejection of the present application.

4. Heard the arguments.

5. Perused the records the plaintiff has filed the present suit for the relief partition and separate possession against the defendants. The plaintiff has filed suit with respect to

survey number 60/\* measuring 7 acre 27 gunta of land out of 15 acre 14 gunta of land situated towards southern side in survey number 60 land. The plaintiff has contended that, the defendant No-9 and 10 by colluding with the defendant No-12 are trying to show the land of the plaintiff towards northern side in survey number 60 land. The old sketch map produced by the parties show that, the property of the plaintiff is situated towards southern side as per the podi map.

6. The documents produced by the parties also shows that the podi map made in the year 2017 is canceled in the year 2022 and ordered for re-measurement of land as per the possession of the parties. The order of the year 2024 of the DDLR shows that, the hissa No-1 to 3 are canceled and ordered for re-survey of the land. The sketch dated 26-07-2024 shows that, the 2 hissass are made in survey number 60 from north to south by canceling divisions from east to west portions. On perusal of the materials on record at this stage it appears that, the plaintiff is claiming the

existence of the suit property in the southern portion of the survey number 60 land. The documents produced by the defendant No-9 and 10 showing that, the suit property is situated towards western side in survey number 60 land. Hence, considering the materials on record it appears that, the presence of the defendant No-9 and 10 is necessary in the present suit in order to consider the case of the plaintiff. Hence, considering the materials on record I am of the opinion that, the defendant No-9 and 10 have not made out grounds for allowing the present application. Hence, the present application is required to be rejected.

Hence, IA No-5 filed by the defendant No-9 and 10 is hereby rejected.

For WS if any and plaintiff evidence.

Senior Civil Judge and JMFC,  
Afzalpur.