

KAKB410000352023



IN THE COURT OF THE SENIOR CIVIL JUDGE
& J.M.F.C., AT : CHINCHOLI

Present : Smt.Jyoti.Shantappa.Kale
L.L.M.,
Senior Civil Judge & JMFC, Chincholi.

DATED : THIS THE 3rd DAY OF August 2024

ORIGINAL SUIT No.20/2023

i.	Provision under which the application is filed	U/o 1 Rule 10 of CPC
ii.	Relief sought for	For impleading
iii.	The date on which the application is filed	24-06-2024
iv.	Number of the application	I.A No.III
v.	The date on which the objections are filed by different opponents	29-07-2024
vi.	The date on which the orders were passed on the said application	03-08-2024

Plaintiff/s

Anjamma W/o Tukaram and another.

V/s

Defendant/s:

Mallappa S/o Narasappa and others.

-: I.A.No.III:-

Applicant/s:

Anjamma W/o Tukaram and another.

V/s.

Opponent/s:

Mallappa S/o Narasappa and others.

Order On Interim Application No. III Filed By the plaintiff Under Order I Rule 10 Of Civil Procedure Code, 1908

1. This is an Interlocutory application filed by the plaintiff prayed to implead the proposed defendant No. 4 as defendant No.4 in this case.

2. The plaintiff has stated that she has filed the suit for the relief of partition and separate possession in respect of suit properties. The defendant No.2 has sold the suit property to the proposed defendant No. 4. Hence

proposed defendant No. 4 is necessary party to the suit. On these grounds plaintiff prayed to implead the proposed defendant No. 4 as defendant No.4 in this case. Hence sought for allowing the IA No.III.

3. Notice was issued to proposed defendant No. 4 on IA No.III. Sri. BS filed vakalat for proposed defendant No. 4 and filed objections to I.A No.III. It is contended that proposed defendant No. 4 was purchased the suit house on 17-01-2023 under registered sale deed and plaintiff has filed this suit on 02-02-2023. There was no cause of action for the plaintiff to file the suit as the suit was already sold to the proposed defendant No. 4. It is further contended that suit property is not joint family property of plaintiff and defendant and suit property is standing in the name of proposed defendant No. 4. In the application it is not stated why the proposed defendant No. 4 is to be impleaded in the suit. Hence on these grounds the proposed defendant No. 4 prayed to reject the application.

4. Heard both learned counsel for the plaintiff and counsel for the proposed defendant No. 4 . Perused the materials.

5. On the basis of the above pleadings and on hearing both sides, the following points arise for my consideration.

- 1) Whether the plaintiffs have made out reasonable grounds to allow I.A.No. III filed U/order I Rule 10 (2) R/w Sec.151 of CPC?
- 2) What order?

6. My findings on the above points are as under:

Point No:1 : In the Affirmative.

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

REASONS

7. **Point No.1:-** The plaintiffs have filed the suit for the relief of Partition and separate possession in respect of suit property. It is stated by the plaintiffs that proposed defendant No.4 was purchased the suit house property. In support of this application the plaintiff filed documents that is sale deed dated 17-01-2023 in respect of suit house property and argued that when the plaintiffs making arrangement for filing the suit, at that time the defendant No.2 intentionally has sold the suit house property to the proposed defendant No. 4 to defeat the rights of the plaintiffs. The contention of the proposed defendant No. 4 that there was no cause of action for the plaintiff to file the suit as the suit house property was already sold to the proposed defendant No. 4 and that suit property is not joint family property of plaintiff and defendants is

matter of trial. Looking to the nature of suit the proposed defendant No.4 is necessary party to the suit. Thus the plaintiffs have made out valid and justifiable grounds to allow I.A No.III filed U/o 1 Rule 10(2) R/w Sec.151 of CPC. In the light of above reasons I answer Point No.1 in the Affirmative.

8. Point No.2:- As I have answered point No. 1 in the Affirmative for the foregoing reasons, I proceed to pass the following:

ORDER

IA-III filed Under order 1 Rule 10 (2) R/w Sec.151
of CPC filed by the plaintiffs is allowed.

The proposed defendant No.4 is impleaded in the
suit as defendant No.4.

The plaintiff is directed to carry out necessary
amendment to this effect and file amended plaint.

(Dictated to Typist, typed by her corrected by me, signed and
pronounced by me in the open court on **03rd day of August 2024.**)

(Jyoti Shantappa Kale)
**Senior Civil Judge & JMFC.,
Chincholi.**