

**Order on I.A.No. 3 U/O 1 Rule 10 of
CPC**

The appellant has filed this application U/o 1 Rule 10 of CPC and sought to implead the proposed respondent as respondent No. 7.

2. The respondents No. 4 to 6 herein had filed suit for partition and separate possession against respondents No. 1 to 3 and appellants No. 1 to 3. On the file of the Prl. Civil Judge, Chincholi in FDP No. 04/2014. In the said FDP father of respondent No. 1 and husband of respondent No. 2- Vittalreddy is not added as party to the suit.

The said Vittalreddy is still alive. Hence, she is proper and necessary to this suit. Hence, prays to allow the I.A.

3. After service of I.A. Notice the proposed respondent has appeared through his counsel and filed objections to I.A. He has contended that his wife Narsamma and son Krishna Reddy are already on record and his share is allotted to them. He has no objection for allotment of his share to his son and wife. Therefore he is not proper and necessary party in this appeal or in R.A. No. 14/2023. Hence, prays to dismiss the I.A.

4. Perused the records. Heard arguments.

5. The records reveal that the respondents and others had filed suit for partition in O.S. No. 46/2011 against son and wife of proposed respondent and others for partition and separate possession without adding proposed respondent as party to the suit. As per the principle of Hindu Law, the head of the branch is necessary party to the suit. In pursuance of the preliminary decree FDP was filed and in FDP also the petitioner had not made proposed respondent as party to the proceedings. In this case the proposed

respondent is head of one branch consisting of himself, his wife and son. Therefore proposed respondent is proper and necessary party to the suit. In fact during the life time of proposed respondent his wife and son are not necessary party to the suit. But for the reasons best known to him the plaintiff did not implead the proposed respondent as party to the suit.

6. The proposed respondent has filed objection contending that already his wife and son are party to the share and his share was allotted to them and for that he has no objection. It is to be noted that being head of the branch the proposed respondents is entitled for his share and not his wife and son. Further he has not transferred his share in favor of his son and wife through registered document. He cannot give up his rights by merely filing objections to I.A. Therefore in the opinion of this Court the proposed respondent is having all the rights over his undivided share over the suit properties. Therefore he is proper and necessary party to the appeal. Hence, the following:

ORDER

The application filed by the appellant U/o 1 Rule 10 of CPC is hereby allowed.

The proposed respondent is added as respondent No. 7.

The appellant shall amend the appeal memo and furnish amended appeal memo.

For amendment and amended appeal memo

Call on 09-12-2025.

C/C Senior Civil Judge & JMFC,
Chincholi.