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IN THE COURT OF THE CIVIL JUDGE & JMFC

AT: JEWARGI

PRESENT: Sri. Kashinath V. Uppar, B.Sc., LL.B.,
Civil Judge & J.M.F.C.,
Jewargi.

Dated This the 7th Day of November-2025

ORIGINAL SUIT No.2/2024

PLAINTIFFS : 1. Sri. Raghavendrachari S/o Bhimasenrao,
Age: 50 years, Occ:Agriculture,
2. Sri. Bhimsenrao S/o Raghavendra,
Age: 21 years,
3. Sri. Sudeep S/o Raghavendra,
Age: 18 years, Occ:Agriculture,
All are R/o: Ballundagi, Tq:Jewargi

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

V/s.

DEFENDANTS: 1. Gurappa S/o Ningabasappa Budihal,
Age: 54 years, Occ:Agriculture,
2. Sidramappa S/o Ningabasappa Budihal,
Age: 54 years, Occ:Agriculture,
3. Sidramappa S/o Ningabasappa Budihal,
Age: 45 years, Occ:Agriculture,
All are R/o: Ballundagi, Tq:Jewargi.

(By. Sri.J.V.H., Advocate)

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PARTIES TO I.A. No.4 & 5

APPLICANT/ : Smt. Bhagyashree and Others
PLAINTIFFS
 V/S

OPPONENT/ : Sri. Gurappa and Others
DEFENDANTS

i.	Provision under which the application is filed	I.A.No.4 filed by 3 rd party applicant U/o 1 Rule 10 & 6 Rule 17 of CPC
ii.	Relief sought for	Implead the proposed plaintiff No.3 and 4 and amendment the plaint
iii.	The date on which the application is filed	14-02-2025
iv.	Number of the application	IA No.4 & 5
v.	The date of which the objections are filed by different opponents	28-02-2025
vi.	The date on which the orders were passed on the said application	07-11-2025

COMMON ORDERS ON I.A No.4 & 5

1. The 3rd party applicant filed I.A No.4 under Order 1 Rule 10 & I.A.No.5 filed U/O 6 Rule 17 of C.P.C., seeking relief of implead the proposed plaintiff No.4 and 5 and I.A.No.5 filed for amend the plaint.

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The proposed amendment as under:

2. After 3rd para of plaint para No.3 (a) may be added as under:

That the 4th plaintiff is owner in lawful possession of suit item No."A" property measuring 12 acres and 5th plaintiff is owner in lawful possession of suit item No."A" property measuring 02 acres 28 guntas in pursuance of registered partition deed bearing document No.2532/22-23 dated 13-05-2022. Since the date of partition they are enjoying the same as an owner without any body's interference much less of defendants.

3. The 3rd party applicants in sworn to the affidavit annexed with the I.A.No.4 and stated that, the 3rd party applicant husband and children have filed this suit against defendants seeking relief of perpetual injunction. Prior to filing of this suit the 3rd party applicant and plaintiffs got executed partition deed among themselves as to suit properties via registered partition deed bearing document No.2532/22-23 dated 13-05-2022. As per the partition deed 1 and 2nd applicants also owners in lawful possession of suit item

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No."A" property. The defendants without having any rights and interest over the suit properties are trying to interfere into my peaceful; possession over the suit properties. Hence, with no option 3rd party applicants approached to this hon'ble court to get implead themselves as plaintiffs to seek necessary relief in this suit. I being an owner of suit item No."A" property has right to protect their property against stranger. Therefore, to avoid multiplicity of proceedings it is necessary to permit 3rd party applicants to get implead themselves as plaintiffs. If application is allowed no harm would be caused to other side, if not defendants would succeed in their illegal acts. If they succeed in their act I would be put to heavy loss which cannot compensated in terms of money.

4. The 1st plaintiff in sworn to the affidavit annexed with the I.A.No.5 and stated that, plaintiffs have filed suit against defendants seeking relief of perpetual intention as to suit properties. But due to oversight the plaintiff could not inform his counsel as to execution of partition deed in favour of his wife and sister as to suit item No."A" property. Recently, plaintiff is know from his counsel that, plaintiff did not inform aforesaid fact at the

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time of filing of suit. non-introduction of aforesaid fact is not intentional one but due to above said reasons have informed by counsel as to aforesaid facts. Hence, introduction of proposed amendment in the plaint is necessary to decide real question in controversy.

5. Defendants counsel filed objections to I.A.No.4 and 5 contending that, the Present plaintiffs and proposed plaintiff No.4 and 5 are colluded and are trying to dupe the legitimate right of defendant No.1 and 2 in pursuance of registered agreement for sale executed by the plaintiff No.1 in respect of portion of suit property and in that regard they have created a sham and bogus registered partition deed which is not binding on defendant No.1 and 2. The defendant No.1 and 2 have filed the written statement by disclosing the material facts which have been suppressed by the present plaintiffs then the present plaintiffs to overcome the lacuna are trying to implead the proposed parties as the plaintiff No.2 and 5 and wants to amend the plaint. The present suit is filed by the plaintiffs for perpetual injunction on the basis of false and baseless grounds and without any cause of action. The proposed plaintiffs

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could not come on record as they have no cause of action to continue the suit against the defendants. The plaintiffs and proposed plaintiffs are belongs to the same family and they are having knowledge of execution of partition deed and filing of suit by the one Shantabai in O.S.No.14/2023 for declaration and injunction in respect of suit property against the defendants hence both the applications are not maintainable and liable to be rejected, if the petition is allowed then the present plaintiffs could not continue the suit as they have lost the right to sue against the defendants and their cause of action will not survive, if the petition is allowed the nature of the suit will changes. Hence, the proposed parties may be directed to file the separate suit if they wants on their own cause of action, further if the amendment is allowed and proposed parties impleaded which amounts to introduce a new case against the defendants and they are trying to bring new plea and the plea which have been taken by the present plaintiffs and proposed plaintiffs are inconsistent and hence the present plaintiffs to save the dismissal of their claim are trying to implead the parties and amend the plaint hence the petitions are not maintainable. The proposed

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amendment is brought after filing the written statement and setting their defense and apply both application are not maintainable and liable to be dismissed.

6. Heard on both side

7. On considering the rival contention of the parties, the points that would rise for my consideration are as under:

POINTS

1. Whether the 3rd party applicant filed by the I.A.No.4 U/O 1 Rule 10 is deserves to be allowed ?
2. Whether the interim application No.5 filed by the plaintiff U/O 6 Rule 17 of CPC, is deserves to be allowed ?
3. What order?

8. The plaintiffs' counsel vehemently argued that, the interim application filed by the plaintiffs are made out a sufficient grounds to allow the applications. As per registration partition-deed proposed plaintiff No.4 and 5 are the necessary party to this suit and the proposed amendment is necessary to adjudicate the real question

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of controversy between the parties. The defendants counsel argued before the court that, the interim application filed by the plaintiff is deserves to be dismiss. The plaintiffs colluded with each other and create sham and false partition deed created with an intention to dupe the legal rights of defendants in the suit schedule properties.

9. My answer to the above points on are as under:

Point No.1 : In the Affirmative.

Point No.2: In the Affirmative.

Point No.3 : As per final order for the Following;

REASONS

10. **Point No.1 & 2:-** These points are inter-connected to each other, to avoid the repetition of facts take together for common discussion.

Admittedly, this suit is for perpetual injunction against the defendant. It is the contention of the proposed plaintiff No.4 and 5 that, prior filing of this suit the applicant and plaintiffs got executed among themselves as to suit property via registered partition-deed document bearing No.2532/2022-23 dated 13-05-2022. As per the partition deed the applicants also owner in lawful possession of the suit item No."A"

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property. Defendants without having any rights and interest over the suit schedule property are trying to interfering into the possession of applicant over the suit schedule property.

11. The plaintiffs filed I.A.No.5 U/O 6 Rule 17 of CPC, to seeking a relief of amend the plaint. It is the contention of the plaintiff that, due to over sight the plaintiff could not inform their counsel as to execution of partition deed in favour of plaintiff's wife and sisters as to suit item No."A" property. Plaintiffs have recently, know from his counsel that, he did not inform about the partition deed at the time of filing of this suit.

12. Per-contra, defendants counsel objected that, plaintiffs and the proposed plaintiff No.4 and 5 are colluded to each other and created a false forged partition-deed. The 1st plaintiff has executed registered agreement for sale in favour of defendants in respect of suit schedule property. The plaintiffs have been suppressed material facts and trying to implead the proposed parties as plaintiff No.4 and 5. If petition is allowed the nature of the suit will change and the

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present proposed parties are may be directed to file separate suit if they want to their own cause of action.

13. Perused the plaint, written statement and document produced by the both parties. This case filed by the plaintiff against the defendants for a relief of perpetual injunction. It is the contention of the plaintiff that, plaintiffs are the lawful possession in the suit schedule "A" properties. Without having a right and interest over the suit schedule properties plaintiffs are trying to obstruct the peaceful possession of enjoyment of suit schedule properties. The defendants are filed suit for specific performance of contract, in O.S.No.132/2022 before Hon'ble Senior Civil Judge, Jewargi. The Hon'ble Senior Civil Judge, Jewargi, has granted stay order in favour of defendants. Per-contra, defendants filed written statement that, 1st plaintiff has executed the agreement of sale in favour of defendant No.1 and 2. It is the contention of the defendants that, they are in the possession of suit schedule properties on the strength of agreement of sale executed by the plaintiff No.1 in favour of defendant No.1 and 2.

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14. The proposed plaintiff No.4 and 5 are filed interim application No.4 on the strength of registered partition deed document bearing No.2532/22-23, dated 13-05-2022. On perusal of the partition deed the present proposed plaintiff No.4 and 5 also parties to the said deed and on perusal of partition deed suit properties also divided among the proposed plaintiff No.4 and 5. At this stage, this court is of the opinion that, the proposed plaintiff No.4 and 5 are the necessary parties to this suit. The contention taken by the defendant is required full-pledged trial if application is allowed no harm will cause to the defendants.

15. The interim application No.5 U/O 6 Rule 17 of CPC, is filed by the plaintiff on the strength of the registered partition deed. This suit filed by the plaintiff against the defendant for relief of perpetual injunction. It is the settled law that, the lawful possession only see in the suit. Therefore, the proposed amendment is necessary to adjudicate real question of controversy between the parties. If this application is allowed no harm will cause to the defendants. The delay caused by the plaintiffs is compensated on the term of money hence, this court is of the opinion that, the interim

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application filed by the plaintiffs deserves to be allowed.

Hence, I answer Point No.1 and 2 in the Affirmative.

16. **Point No.3**:- In view of my findings on Points No.1 and 2, I proceed to pass the following:

ORDER

I.A.No.4 filed by the proposed plaintiffs No.4 and 5 under Order 1 Rule 10 C.P.C., is hereby allowed on cost of Rs.500/-. The applicant is permitted to come on record as plaintiff No.4 and 5 in the present suit.

I.A.No.5 filed by the plaintiffs No.1 under Order 6 Rule 17 C.P.C., is hereby allowed.

For amendment and amendment plaint.

(Dictated to the Stenographer directly on computer, typed by him, corrected and then pronounced by me in the Open Court on this 7th Day of November- 2025).

(Kashinath V Uppar)
Civil Judge & JMFC,
Jewargi.

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