

**IN THE COURT OF THE CIVIL JUDGE AND JMFC., JEWARGI  
AT JEWARGI.**

**Present:- Sri.D.Ramesh, BA.L., LL.B.,  
Civil Judge and JMFC, Jewargi.**

**Dated : This the 07<sup>th</sup> day of March, 2023**

**O.S.No.21/2018**

Between:

Shri. Ramesh : **Plaintiff**

**(By Sri.B.B., Adv.)**

And

Shri. Honnappa and Others : **Defendants**

**(Defendant No.1 By Sri.J.V.H., Adv.)  
(Defendant No.2 and 3 placed exparte)**

**I.A.No.6**

1. Mallikarjun : **Applicants/Proposed  
Defendants No.4 to 11**  
S/o Honnappa,

Aged about: 54 years.

Occupation : Agriculture,

R/o Karkihalli Village,

Yadrami Taluka, Kalaburagi District.

2. Mallamma

W/o Bhimanna

(D/o Honnappa Anegundi),

Aged about: 48 years,

Occupation: Household,

R/o Hangarga (B) Village,

Yadrami Taluka, Kalaburagi District.

3. Bhimabai @ Bassamma  
W/o Chandappa  
(D/o Honnappa Anegundi),  
Aged about: 46 years,  
Occupation: Household,  
R/o Doranahalli Village,  
Shahapur Taluka, Yadagiri District.

4. Ningappa  
S/o Honappa Anegundi,  
Aged about: 45 years,  
Occupation: Agriculture,  
R/o Karkihali Village,  
Yadrami Taluka, Kalaburagi District.

5. Karabassamma @ Godavari  
W/o Bhimashankar  
(D/o Honnappa Anegundi)  
Aged about: 42 years,  
Occupation: Agriculture,  
R/o Mysor, Tq: & Dist: Mysore.

6. Laxmibai @ Laxmi  
W/o Raju  
(D/o Honnappa Anegundi),  
Aged about: 37 years,  
Occupation: Household & Agriculture,  
R/o Halisagar,  
Shahapur Taluka, Yadagiri District.

7. Vijayamma @ Laxmi  
W/o Bhimanna  
(D/o Honnappa Anegundi)  
Aged about: 36 years,  
Occupation: Household,  
R/o Bilwar Village,  
Yadrami Taluka, Kalaburagi District.

8. Anjuladevi  
W/o Ashok  
(D/o Honnappa Anegundi)  
Aged about: 31 years,

Occupation: Household,  
R/o Dandoti,  
Chittapur Taluka, Kalaburagi District.

V/s.

Shri Ramesh

: **Opponent/Plaintiff**

**ORDERS ON IA No.6**

The third parties to the suit have filed the application U/o 1 rule 10(2) R/w 151 of CPC praying to implead them as defendants No.4 to 11.

**2.** The brief averments of the affidavits are as follows:-

That the plaintiff and defendant No.2 and 3 are colluded among them and they are claiming to be the children of defendant No.1 and seeking partition in the suit properties without disclosing material facts. The mother of proposed defendants has got 8 children. The proposed parties are the children of defendant No.1 born through deceased Parvati. The plaintiff and defendant No.2 and 3 are not the children of defendant No.1. However they have filed the false suit claiming the suit property with suppressing the facts of legal status of mother of proposed parties. The proposed parties have got legitimate share in the property. Recently they came to know that the plaintiff is falsely litigating against the father of the proposed parties. Then the proposed parties verified the records and filing the present application. The proposed parties are proper and necessary to decide the controversy and protect their rights and share in the suit property. If the application is allowed no loss or harm would cause to the plaintiff and defendant No.1 to 3, if not allowed the proposed parties would be put to loss and it

will be involved into multiplicity of litigation. Hence prays to allow the application.

**3.** On the other hand counsel for the plaintiff filed objections to the application contending that the proposed parties have filed the application in collusion with defendant No.1 with an intention to drag the case. Suit of the plaintiff is for partition claiming that plaintiff and defendant No.2 and 3 are children of defendant No.1 born through his wife by name Satamma. Defense of defendant No.1 is that one Parvathi is his wife and proposed applicants are his children and plaintiff, defendant No.2 and 3 are no way concerned to him. The defense of defendant No.1 and proposed applicants is one and the same. If plaintiff proves the relationship with defendant No.1 certainly he would entitle for share, if not, suit property remained with defendant No.1. So the applicants neither necessary parties nor proper parties to the suit. In their absence Hon'ble court can pass effective decree by declaring the plaintiff rights over the suit property. Hence prays to reject the application.

**4.** Heard the arguments. Perused the records.

**5.** The Points that arise for my consideration are as follows:-

**Point No.1:- Whether the proposed parties prove that the application filed by them deserves to be allowed?**

**Point No.2 :- What order?**

**6.** I answer the above points as follows:-

**Point No.1:- In the Affirmative.**

**Point No.2:- As per the final orders for the following,**

### **REASONS**

**7. Point No.1 :-** Having heard and on perusal of record it discloses that the plaintiff has filed the suit for partition and

separate possession against three defendants in respect of suit property contending that himself and defendant No.2 and 3 are sons of defendant No.1 and the suit properties are their ancestral and joint family properties. On service of suit summons the defendant No.1 appeared through his counsel and filed written statement contending that the plaintiff and defendant No.2 and 3 are not his children, but one Pravati is his wife and the proposed applicants are his children. The defendant No.2 and 3 remained absent and placed *ex parte*. Thereafter issues have been framed and posted for plaintiff evidence. At this stage the proposed defendants No.4 to 11 appeared and filed the present application by praying to implead them contending that the plaintiff and defendant No.2 and 3 are not the children of defendant No.1, but the proposed defendants are the children of defendant No.1 born through his legally wedded wife of Pravati. Hence they are necessary and proper parties to the suit.

**8.** On the other hand counsel for the plaintiff filed objections to the application contending that the contention of the defendant No.1 and proposed parties are one and the same therefore the plaintiff is to prove that himself and defendant No.2 and 3 are the children of defendant No.1. Hence if the plaintiff failed to prove the said contention certainly the suit property will be remained with the defendant No.1. Therefore the proposed applicants neither necessary parties nor proper parties.

**9.** As discussed above it is the suit for partition and separate possession. In a suit for partition all the family members who are having right and share over the property are necessary party. But in the case on hand as per the claim of the plaintiff, himself and

defendant No.2 and 3 are the children of defendant No.1. But as per the defense of the defendant No.1 plaintiff and defendant No.2 and 3 are not his children, but one Pravati is his wife and the proposed parties are his children. Therefore certainly as contended by the plaintiff the defense of the defendant No.1 and the proposed parties are one and the same. The issue involved in this case is one and the same. However the proposed parties themselves came up with the present application. Hence let them contest the matter. Whether they are the children of defendant No.1 or not or in the other words whether the plaintiff and defendant No.2 and 3 are children of defendant No.1 or not would be decided only after full fledged trial. At this stage the relationship between the parties cannot be decided. Hence let conclude the trial, then only real fact will be come out. Hence prima-facie shows that the proposed parties are necessary parties to the suit. Hence it is proper to implead them to avoid the multiplicity of proceedings. Therefore application is liable to be allowed. Accordingly, I answer the Point No.1 in the Affirmative.

**10. Point No.2 :-** In view of the above discussion, I proceed to the pass the following :-

**ORDER**

**I.A.No.6 U/o 1 rule 10(2) R/w 151  
of CPC filed by the proposed defendants  
is hereby allowed.**

**Consequently, the proposed  
defendants are permitted to implead  
themselves as defendant No.4 to 11.**

(Dictated to the Stenographer directly on Computer corrected and then pronounced by me in the open court on the 07<sup>th</sup> day of March-2023.)

**(D.RAMESH)**  
**Civil Judge & JMFC.,**  
**Jewargi.**