

**IN THE COURT OF THE SENIOR CIVIL JUDGE AND JMFC AT
SEDAM**

PRESENT: SRI. VIJAYKUMAR S. JATLA
B.Sc., LL.B.
Senior Civil Judge & JMFC, Sedam.

DATED THIS THE 18th DAY OF AUGUST-2021.

O.S.No.49/2021

Plaintiff : Sidramappa.
Versus
Defendants : Shankar and Others.

**Order on I.A.No-2 Under Order 1 Rule 10 R/w 151 of CPC filed by
plaintiff**

This is an interlocutory application is filed by the plaintiff seeking impleading proposed defendant No.4 as a party to the proceedings.

Proposed defendant No.4.

D4. Nagamma W/o Late Shamrao, Age: 55 years, Occ: Agriculture, R/o Malkhed J Tq: Sedam, Dist: Kalaburgi.

2. Advocate for plaintiff contended that the present suit plaintiff has not made the necessary party of one of the brother's wife i.e., proposed

defendant No.4. The husband of proposed defendant No.4 was died behind the back his wife as legal heir, the necessary party not made is not an intentional one because typical mistake therefore may kindly be permit to proposed defendant NO.4. If present petition is allowed other side will not prejudice in any manner. If present petition is not allowed plaintiff will be put to heavy irreparable loss which cannot compensate in terms of money and plaintiff will face multiplicity of proceedings. Therefore it is prayed that this Hon'ble court may be pleased to permit the plaintiff to implead proposed defendant No.4. Hence the proposed defendant No.4 the necessary party to the suit for proper adjudication of the case.

3. The defendants not filed objection to the I.A No.2.
4. On the basis of the above pleadings and on hearing both sides, the following points arise for my consideration.

- 1) Whether the plaintiff has made out grounds to allow I.A.No.2 Under order 1 Rule 10 R/w 151 of CPC ?
- 2) What order?

5. 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

6. **Point No.1:-** The case of the plaintiff is as discussed above. This is a suit for Partition and separate possession in respect of suit schedule property against the defendants. This application is filed by the plaintiff for impleading proposed defendant No.4 as stated in supra.

7. Advocate for plaintiff contended that the proposed defendant No.4 is very much essential for proper adjudication of the matter, hence sought for allowing the application.

8. On perusal of the IA No.2 it is seen that the plaintiff filed suit for partition and separate possession against the defendants. The proposed defendant No.4 is very much essential for proper adjudication of the case as the proposed defendant No.4 is the wife of deceased brother of plaintiff. If the application not allowed it will lead to multiplicity of the proceedings. Hence the proposed defendant No.4 is very much essential party to the proceedings. It is burden on the plaintiff to prove the case in hand effectively by making necessary parties to the proceedings. The proposed defendant No.4 impleading will not change the nature of suit and it is essential for proper adjudication of dispute. If the impleading application is not allowed it will lead to the multiplicity of the proceedings and suit is bad for non joinder necessary party. The plaintiff made out the valid and

justifiable grounds to allow I.A No.2 U/o 1 Rule 10 R/w 151 of CPC. In the light of above reasons I answer Point No.1 in the Affirmative.

9. 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-2 Under order 1 Rule 10 R/w 151 of CPC
filed by the plaintiff is allowed.

Further the proposed defendant No.4 is ordered
to be bring on record as defendant No.4.

(Dictated to the Stenographer directly on computer and corrected by him and then pronounced by me, in the open Court on this the **18th day of August-2021**, at Sedam)

Senior Civil Judge & JMFC,
Sedam.

18-08-2021.

Pltf by HLA

For orders.

(Order pronounced in the open court vide separate order)

ORDER

I.A-2 Under order 1 Rule 10 R/w 151 of CPC
filed by the plaintiff is allowed.

Further the proposed defendant No.4 is ordered
to be bring on record as defendant No.4.

For amendment and amended plaint.

Call on 30-08-2021.

**Senior Civil Judge, & JMFC
Sedam.**