

**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 12<sup>th</sup> DAY OF JANUARY-2023.**

**O.S.No.49/2021**

**Plaintiff** : Sidramappa.

Versus

**Defendants** : Shankar and Others.

**Order on I.A.No-3 Under Order 1 Rule 10 R/w 151 of CPC filed by  
plaintiff**

This is an interlocutory application filed by the plaintiff seeking impleading proposed defendant No.5 to 8 as parties to the proceedings.

Proposed defendant 5 to 8 are as under: .

D5. Kirankumar S/o Shivappa Talkin Age: Major, Occ: Agriculture, R/o Veerbhadreshwar Temple, Malkhed, Tq: Sedam.

D6. Basavaraj S/o Somshekhar Bhootpur, Age: Major, Occ: Agriculture, R/o Near Veerbhadreshwar Temple Malkhed, Tq: Sedam.

D7. PDO Gram Panchayat Malkhed, Tq: Sedam, Dist: Kalaburagi.

D.8. President, Gram Panchayat Malkhed, Tq: Se;dam, Dist: Kalaburagi.

2. Advocate for plaintiff contended that the present suit the plaintiff has filed the partition and separate possession against defendant and filed petition U/o 39 Rule 1 and 2 of CPC and the court has issued emergent notice to defendants, but the defendants are not filed the written statement and objection. The defendant and Gram Panchayat PDO and President are colluded each other with malafide intention to alienate the suit property create the open plots, not approval NA and layout and same was mutation some other parties. Therefore, the plaintiff has made the necessary party to this suit i.e., proposed defendant No.5 and 6, the proposed defendant No.5 and 6 are the necessary parties not made is not an intentional one because of want of knowledge, therefore, may kindly be permit to proposed defendant No.5 and 8. If the petition is allowed other side will not prejudice in any manner. If the present application is not allowed, the plaintiff will be put to heavy irreparable loss which cannot be compensated in terms of money and it leads to multiplicity of proceedings. Hence, sought for allowing IA No.3 as prayed for.

3. The proposed defendants not filed objection to the I.A No.3.

4. On the basis of the above pleadings and on hearing plaintiff side, the following points arise for my consideration.

- 1) Whether the plaintiff has made out grounds to allow I.A.No.3 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.5 to 8 as stated in supra. The proposed defendant No.5 to 8 have not filed any objection.

7. Advocate for plaintiff contended that the proposed defendant No.5 to 8 are very much essential for proper adjudication of the matter, hence sought for allowing the application.

8. On perusal of the IA No.3 it is seen that the plaintiff filed suit for partition and separate possession against the defendants. The proposed defendant No.5 to 8 are very much essential for proper adjudication of the

case as the proposed defendants and Gram Panchayat PDO and President are colluded each other with malafide intention to alienate the suit property create the open plots, not giving approval for NA and layout and same was mutating in the name of some other persons. If the application is not allowed it will lead to multiplicity of the proceedings and lands will be mutated in the name of other persons who are not concerned to the properties. In order to avoid misuse of power it is just and necessary to implead the proposed defendnat No.5 to 8 party to the proceedings. It is burden on the plaintiffs to prove the case in hand effectively by making necessary parties to the proceedings. The proposed impleading of defendant No.5 to 8 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.3 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-3 Under order 1 Rule 10 R/w 151 of CPC  
filed by the plaintiff is hereby allowed with no cost.

Further the proposed defendant No.5 to 8 are  
ordered to be bring on record as defendant No.5 to  
8.

(Dictated to the Stenographer directly on computer and corrected, signed  
and then pronounced by me, in the open Court on this the **12<sup>th</sup> day of  
January-2023**, at Sedam)

Senior Civil Judge & JMFC,  
Sedam.