

IN THE COURT OF THE SENIOR CIVIL JUDGE AND J.M.F.C
SEDAM

PRESENT: SRI. VIJAYKUMAR S. JATLA

B.Sc., LL.B.

Senior Civil Judge & JMFC., Sedam

DATED THIS THE 25th DAY OF JANUARY-2022.

O.S.No.79/2018

Plaintiff : Eshwaramma

Versus

Defendant : Chennamma and others

Order on I.A.No-10 U/O 1 Rule 10 of CPC filed by the proposed
defendant No.4

This is an interlocutory application filed by the proposed defendant No.4 seeking for impleading the proposed defendant No.4 as defendant No.4 in this case. The following proposed defendant No.4 is as under:

1. *Rohit Reddy S/o Bhimreddy Bejja, Age: 24 years Occ: Agriculture, R/o Adki, Tq: Sedam.*

2. Advocate for the proposed defendant No.4 contended that grand father of proposed defendant No.4 Chandrappa Bejja executed will deed in his favour and plaintiff known this fact and intentionally not impleaded him as a party in this case. The proposed defendant No.4 is having right in the suit properties and is proper and necessary party to the proceedings. If the proposed defendant No.4 is not impleaded in the above case, he will be losing right in the properties. Hence sought for allowing I.A.No.10 as prayed for.

3. The advocate for the plaintiff has filed objections by denying the fact that Chandrappa Bejja executed will deed in his favour and it is also false to say that plaintiff knows about the will deed. It is false to say that the plaintiffs have intentionally not impleaded him as a party in this case. It is false to say that if the proposed defendant No.4 is not impleaded, will lose rights in the property. The proposed defendant is falsely claiming execution of will deed. The proposed defendant No.4 and his father created false will deed. The plaintiffs have filed suit for partition which is within the knowledge of the proposed defendant No.4 but for three years he has not filed impleading application. Now the case is posted for defendants

evidence then only in order to delay the proceedings has filed the application to implead. It is contended that the proposed defendant No.4 who is claiming independent right under which has not filed suit within three years now it is time barred impleading application by person claiming his rights under will deed is not maintainable. Hence sought for rejection of I.A.No.10.

4. Heard on both sides.

5. The following points that would arise for my consideration are:

1) Whether the proposed defendant No.4 has made out grounds to allow I.A.No.10 U/O 1 Rule 10 of CPC?

2) What order?

6. 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

7. **Point No.1:-** The case of the proposed defendant No.4 and plaintiff is as discussed above. The plaintiffs filed the suit for partition and separate possession in respect of suit properties. The advocate

for the proposed defendant No.4 filed this application to implead the proposed defendant as defendant No.4 in this suit when the matter is posted for defendant evidence. The advocate for the proposed defendant No.4 contended that the proposed defendant No.4 is proper and necessary parties for adjudication of the matter in dispute. Further contended that grand father of proposed defendant No.4 by name Chandrappa Bejja executed will in his favour and the will property is subject matter of the present suit. Hence sought for allowing I.A.No.10. Advocate for the plaintiff contended that will is created one and there is no document furnished by the proposed defendant No.4 in respect of averments made in I.A.No.10.

8. On perusal of the plaint, written statement, I.A.No.10 and objection, it is seen that the plaintiffs filed the suit for partition and separate possession in respect of suit properties. Now the proposed defendant No.4 filed present application for impleading him in the light of will. The proposed defendant No.4 admittedly grands on of Chandrappa and will has been executed as per the say of proposed defendant No.4. Hence, proposed defendant No.4 is necessary party

to the proceedings in order to effective adjudication of the matter in dispute. The question of validity of the will can be ascertained after full fledged trial. Advocate for the plaintiff is disputing the will. It is burden on the proposed defendant No.4 to substantiate his case through will. As the part of the suit property is also subject matter in the will, it is just and proper to implead the proposed defendant No.4 in the proceedings. The proposed defendant No.4 has made out grounds to allow I.A.No.10 as prayed for. In the light of the 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-10 U/O 1 Rule 10 of CPC filed by the proposed defendant No.4 is hereby allowed. The proposed defendant No.4 is permitted to come on record as defendant No.4.

The plaintiffs are directed to amend the plaint by impleading proposed defendant No.4

by name Rohitreddy S/o Bhimreddy Bejja, Age:

24 years, Occ: Agriculture, R/o Adki, Tq:

Sedam.

(Dictated to the stenographer, transcribed and typed by him on computer and corrected and then pronounced by me, in the open Court on this the **25th day of January-2022**, at Sedam)

(Vijaykumar S.Jatla)
Senior Civil Judge & JMFC,
Sedam.