

ORDERS ON IA.NO.XIX FILED BY THE PLAINTIFF
UNDER ORDER I RULE 10 READ WITH SECTION 151 OF
THE CODE OF CIVIL PROCEDURE

The plaintiff has filed present I.A.No.XIX under Order I Rule 10 read with Section 151 of the Code of Civil Procedure seeking to implead the proposed defendants no.10 to 12 to the suit.

2. In the affidavit accompanying the I.A.No.XIX, the plaintiff has sworn to an affidavit and stated that she has filed the above suit against the defendants for the relief of Partition and Separate Possession of the suit schedule properties. In the meanwhile, she came to know that names of the proposed defendants are entered in the RTC,s with respect to Item No.1 to 5 of the suit schedule properties. Hence, the proposed defendants are necessary parties for fair adjudication of the case. For all these reasons, she prayed to allow I.A.No.XIX.

3. After filing of the I.A.No.XIX, the notice was issued to the proposed defendants. The said notice was served to them. On 28.02.2023 the proposed defendant no.12 appeared in person before the court and sought time to engage the counsel for himself and proposed defendant no. 10 and 11, accordingly time was granted. Thereafter, inspite of giving sufficient time, they remained absent, accordingly as per the order dated 24.03.2023 their objection to

I.A.No.XIX was taken as nil and matter was posted to hear on IA.

4. Heard the counsel for plaintiff and perused the materials on record.

5. As per Order I Rule 10 of C.P.C., the Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

6. As per this provision of law, this Court has power to add parties in the suit during the pendency of the suit at any stage. The suit is one for the relief of Partition and Separate Possession. It is contention of the plaintiff that during pendency of above matter, she came to know that names of the proposed defendants are entered in the RTC,s with respect to Item No.1 to 5 of the suit schedule properties. As such they are necessary and proper parties to the suit. It is pertinent to mention here that though the proposed defendant no.12 appeared before the court on 28.02.2023 and sought time to engage counsel and file objection on behalf of himself and other proposed defendants, thereafter they remained absent and not filed

any objection denying the averments made in the affidavit accompanying the IA.No.XIX. Any order passed in the suit would affect the rights and interest of the proposed defendants in respect of the item no.1 to 5 of the suit schedule properties. Thus, they are proper and necessary parties to adjudicate the matter in controversy between the parties. Further, it is domain of the plaintiff to add or delete the parties as he wishes to decide the matter in dispute pending for adjudication. Therefore, the proposed defendants are necessary parties in order to adjudicate the controversies involved in the suit effectively and completely. Moreover, if the proposed defendants are impleaded as party, no harm would be caused to other side including the proposed defendants rather it helps in effective adjudication of the matter in dispute. Therefore, this court is of the opinion that the plaintiff has made out sufficient grounds to allow I.A.No.XIX. Hence I proceed to pass the following:-

:: O R D E R ::

I.A.No.XIX filed by the plaintiff under Order I Rule 10 read with Section 151 of the Code of Civil Procedure is hereby allowed.

The proposed defendants are made as defendant no.10 to 12 to the suit.

The plaintiff is hereby directed to carry out necessary amendment in the plaint and furnish the amended plaint forthwith.

No order as to costs.

For amendment and Amended
plaint.

Sd/-
Prl. Civil Judge and JMFC
Virajpet.

**FULLY CORRECTED READY FOR
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