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KAKL200008022012



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

PRESENT:

SMT. SUKEETA S. HADLI,

B.B.A.,LL.B.,(Hons)

PRL., CIVIL JUDGE & JMFC., BANGARPET.

O.S.NO.41/2012

DATED THIS THE 04TH DAY OF JUNE 2026

PLAINTIFF/S : **Muniyamma.,**

(Rep. by Sri.**K.M.V.**, Advocate)

-V/S-

DEFENDANT/S: **Subbareddy and Others.,**

(D1 to 3, 5 & 6 Rep. by Sri.**A.M.R.**,
D4 Rep.by Sri.**N.S.**, Advocates)

PARTIES TO I.A.NO.IX

Applicant : K.C.Venkataramareddy.,

-V/S-

Opponent : Muniyamma.,

O R D E R O N I . A . N O . I X

The present application is filed by Defendant No.5 under Order I Rule 10(2) read with Section 151 of the Code of Civil Procedure seeking deletion of his name from the array of parties on the ground that he is neither a necessary nor a proper party to the suit.

2. The applicant/Defendant No.5 has filed an affidavit contending that he is not related to the family of the plaintiff or the other defendants. It is his specific contention that he has no concern whatsoever with the suit schedule property and has not purchased any portion of the suit property. According to him, his impleadment in the suit is unnecessary and contrary to law.

3. The applicant further contends that, as per the settled principles governing Order I Rule 10 CPC and the decisions of the Hon'ble High Court of Karnataka and the Hon'ble Supreme Court, he is neither a necessary nor a proper party for adjudication of the controversy involved in the suit. He

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submits that his presence is not required for effective adjudication of the issues arising in the suit and that no prejudice would be caused to the plaintiff if his name is deleted from the array of parties. Accordingly, he prays for striking off his name from the suit.

4. Heard both sides. Perused the application, affidavit, objections and the materials available on record.

5. The following points arise for determination:-

1. Whether Defendant No.5 has made out sufficient grounds to strike off his name from the array of parties under Order I Rule 10(2) CPC?
2. What order?

6. After hearing the arguments and on considering the relevant materials on record, my findings on the above points are hereunder:-

Point No.1 : In the **Negative.**

Point No.2 : As per final order for the following;

REASONS

7. Point No.1:- The records disclose that the present suit is of the year 2012 and has been pending for considerable length of time.

8. The applicant seeks deletion of his name mainly on the ground that he has no concern with the suit schedule property and that he is neither a necessary nor a proper party to the proceedings.

9. Before considering the contention of the applicant, it is necessary to refer to the earlier proceedings of the case. The records produced before the Court reveal that the plaintiff had earlier filed I.A. No.8 under Order I Rule 10 CPC seeking impleadment of one G.V. Arun as Defendant No.6. The said application came to be allowed by the Court after considering the contention that the proposed defendant had purchased a portion of the suit schedule property during the pendency of the suit. While allowing the application, the Court specifically held that the purchaser of a portion of the suit schedule property was a necessary party for complete and effective

adjudication of the dispute.

10. The principle underlying Order I Rule 10 CPC is that all persons whose presence is necessary for complete and final adjudication of the questions involved in the suit should be before the Court. The object of the provision is to avoid multiplicity of proceedings and to ensure that all disputes relating to the subject matter are settled in one proceeding.

11. A distinction exists between a “necessary party” and a “proper party”. A necessary party is one without whom no effective decree can be passed. A proper party is one whose presence enables the Court to effectively and completely adjudicate upon the questions involved in the suit.

12. In the present case, Defendant No.5 was not impleaded casually or inadvertently. His impleadment has already become part of the proceedings and the suit has progressed with his participation. The applicant has not produced any material demonstrating that his impleadment was obtained by fraud, mistake, or misrepresentation. Mere assertion that he has no concern with the property is

insufficient to direct deletion of his name.

13. Whether Defendant No.5 has any right, title, interest, possession, or connection with the suit property is itself a matter that can be effectively examined during trial on the basis of pleadings and evidence. Such disputed questions of fact cannot be conclusively determined in an application under Order I Rule 10(2) CPC.

14. Further, the earlier order passed by the Court on I.A. No.8 demonstrates that persons claiming interest through transactions relating to the suit property were considered necessary for adjudication of the dispute. When the Court has already found that persons connected with transactions concerning the suit property are required to be on record for complete adjudication, deletion of Defendant No.5 at this stage would not be conducive to the effective determination of the controversy.

15. The mere unilateral denial of interest or title by Defendant No.5 in his affidavit cannot be accepted as gospel truth at this stage to strike off his name. Whether Defendant

No.5 has any right, title, interest, or active connection with the suit schedule property involves a mixed question of fact and law, which can only be effectively and completely adjudicated upon a full-fledged trial after the parties lead their respective evidence. Striking off his name at this interlocutory stage would amount to a premature adjudication of his liability or involvement, which is impermissible under Order I Rule 10(2) of the CPC.

16. It is also pertinent to note that the burden of establishing absence of interest in the subject matter squarely lies on the applicant. Except his self-serving affidavit, no independent material is placed before the Court to establish that he has absolutely no connection with the dispute. In the absence of such material, this Court cannot record a finding that his presence is wholly unnecessary.

17. The power under Order I Rule 10(2) CPC is discretionary and is to be exercised judicially. Deletion of a party can be ordered only when the Court is satisfied that such party is neither necessary nor proper for adjudication of

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the suit. Having regard to the nature of the dispute, the stage of proceedings, the earlier order passed by the Court concerning impleadment of parties connected with the suit property, and the absence of convincing material supporting the plea of the applicant, this Court is of the considered view that Defendant No.5 has failed to establish grounds warranting deletion of his name from the array of parties. Accordingly, **Point No.1 is answered in the Negative.**

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

ORDER

The application filed by Defendant No.5 under Order I Rule 10(2) read with Section 151 of the Code of Civil Procedure is hereby dismissed.

No order as to costs.

*(Dictated to the **Stenographer**, typed by her on computer and corrected by me, then pronounced in the open Court on this day **04th day of June 2026**)*

**Prl. Civil Judge and J.M.F.C.,
Bangarpet.**