

Dtd: 30-05-2024

Plntf by K.T Advt.

D1to 3,12,13 by K.R.R Advt.

D2, 6 to 10 by M.V.J Advt.

For orders

ORDERS ON I.A.NO. 7 and 8

The present I.A.No. 7 and 8 filed by the plaintiff under Order 1 Rule 10 of Civil procedure Code seeking to implead the applicants as defendant no. 24 to 31.

2. It is stated in the affidavit annexed to the application that they are also legal heirs of late Venkatareddy and entitled for the shares in the suit schedule property Therefore the applicants are very much necessary for proper adjudication of the matter. If the present application is allowed, no hardship will be caused to the other side, otherwise he will be put to great hardship and injury. Hence, he prays to allow the present application.

3. The counsel for the plaintiff has submitted as no objections to the present application.

4. Heard and perused the records placed before the court.

5. The following point that arises for my consideration ;

1. **Whether the applicants are necessary parties to the suit for complete and effective adjudication of the controversy involved ?**

2. **What order?**

6. My findings on the above points are:

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

Point No.2 : As per final order

for the following :-

REASONS

7. **Point No.1:**

The present suit filed by the plaintiff against the defendants for relief of partition with respect of the suit schedule property. The applicants are legal heirs of common ancestor of plaintiff family i.e., late Venkatareddy such being the case the applicants are necessary parties to the present suit. Since the present suit is filed for the relief of partition

the presence of the applicants is very much necessary for complete and effective adjudication of the controversy involved.

8. This court relays upon the ratio laid down in AIR 1996 Gujarat 40 wherein which it is held that :

**(B) Civil P.C.(5 of 1908) O.1, R.10(2)-
Impleading of parties-Principles- Court
finding that addition of new defendant is
absolutely required to enable court to
adjudicate effectually and completely
upon matter in controversy-Court will add
person even against opposition of
plaintiff-Person even against opposition of
plaintiff-Person wanting to be impleaded
as defendant and plaintiff both claiming
ownership and occupancy rights over
disputed land-Former basing his claim on
ground that members of certain samaj for
which application was filed visit and
worship samadhis on disputed land-Trial
court directing addition of person in
question-Order is valid."**

9. In (1995) 1JT(SC)273 (1995) 3 SCC 147 the Hon'ble court has held that :

Order 1 Rule 10(2) Court may strike or add parties-
condition precedent-object of rule.

“This court may have power to strike out the name of a party improperly joined or add a party either on application or without application of either party, but the condition precedent is that the court must be satisfied that the presence of the party to the added, would be necessary in order to enable the court to effectually and completely to adjudicate upon and settle all questions involved in the suit. To bring a person as party- defendant is not a substantive right but one of procedure and the court has discretion in its proper exercise. The object of the rule is to bring on record all the persons who are parties to the dispute relating to the subject matter so that the dispute may be determined in their presence at the same time without any protection, inconvenience and to avoid multiplicity of proceedings”.

10. So the above ratios is aptly applicable to the facts of the case on hand and it is opined that the presence of the applicants is just and necessary for effective adjudication of the controversy involved and as such, applications deserves to be allowed. Hence this court proceeds to answer the aforesaid point in the '**Affirmative**'.

11. Point No.2: In view of my finding as above this court proceed to pass the following :-

ORDER

IA.No. 7 and 8 filed by the plaintiff
under Order 1 Rule 10 of *Civil Procedure*
Code is hereby allowed.

The plaintiff is directed to implead
the applicants as defendant No. 24 to 31

for amended plaint by 15.06.2024

***(Typed by me on laptop, alignment done by stenographer
and corrected by me and then pronounced by me in the open
Court on this the 30th day of May 2024)***

(SNEHA. M)
ADDL. CIVIL JUDGE & JMFC.,
MULBAGAL.