

**IN THE COURT OF THE I-ADDL.CIVIL JUDGE AND
JMFC., AT K.G.F.**

**PRESENT:- NASRAT MUKHTAR AHMED KHAN., B.A.,
LL.B., LL.M.,
I-Addl. Civil Judge & JMFC., KGF.**

Dated this the 15th day of October 2020

O.S. 193/2018

PLAINTIFF/S :-

1. Smt. Ingrid Drozario,
w/o Maurice Drozario,
Aged about 68 years,
R/at No.2 Kempamma Street,
Oil Mill Road, Aravind Nagar,
Saint Thomas Town,
Bangalore.
2. Smt. Grace Kelman,
w/o Gordan Kelman,
Aged about 64 years,
R/at Soorapali road,
Andersonpet, KGF.
3. Smt. Ann Kelman,
w/o Robert Kelman,
Aged about 62 years,
R/at Rata Block,
Champion Reefs, KGF.

(By Sri. Satish Kumar.S Advocate for Plaintiffs)

-V/s-

DEFENDANT/S:-

1. Smt. Elizabeth,
w/o Jayapal,
Aged about 65 years,
R/at House no.128,
Panadar line,
Andersonpet, KGF.
2. Sri. Guruva Reddy,
s/o Papi reddy,
Aged about 83 years,
R/at Soorapali Village,
Robertsonpet Hobli,
Bangarpet Taluk.

(By Sri. S.Ananda Ramaiah Advocate for defendants)

IA.NO.II**APPLICANT/S:-**

1. Smt. Ingrid Drozario,
w/o Maurice Drozario,
Aged about 68 years,
R/at No.2 Kempamma Street,
Oil Mill Road, Aravind Nagar,
Saint Thomas Town,
Bangalore.
2. Smt. Grace Kelman,
w/o Gordan Kelman,
Aged about 64 years,
R/at Soorapali road,
Andersonpet, KGF.
3. Smt. Ann Kelman,
w/o Robert Kelman,
Aged about 62 years,

R/at Rata Block,
Champion Reefs, KGF.

(By Sri. Satish Kumar.S Advocate for Plaintiffs)

V/s.

OPPONENT/S:-

1. Kodhana Rama Reddy,
s/o late Guruva Reddy,
Aged about 56 years.
2. Shiva Rama Reddy,
s/o late Guruva Reddy,
Aged about 54 years.
3. Jaya Rama Reddy,
s/o late Guruva Reddy,
Aged about 52 years.
4. Smt. Lakshmidevi,
d/o late Guruva Reddy,
Aged about 50 years.
5. Narayana Reddy,
s/o late Guruva Reddy,
Aged about 48 years.
6. Nagabhusnam Reddy,
s/o late Guruva Reddy,
Aged about 46 years.

Defendants no.3 to 8 are
R/at Soorapalli Village,
Robertsonpet Hobli,
KGF Taluk.

(By Sri. S.Ananda Ramaiah Advocate for defendants)

**UNDER ORDER 1 RULE 10(1) and (2) R/W SEC.151 OF
CPC.**

Plaintiffs have filed IA. no. II under Order I Rule 10(1) and (2) r/w section 151 of CPC praying this court to implead the proposed defendants as defendant no.3 to 8 in the above case.

**2. PROPOSED DEFENDANTS TO BE ADDED IN THE
CASE:**

3. Kodhana Rama Reddy,
s/o late Guruva Reddy,
Aged about 56 years.
4. Shiva Rama Reddy,
s/o late Guruva Reddy,
Aged about 54 years.
5. Jaya Rama Reddy,
s/o late Guruva Reddy,
Aged about 52 years.
6. Smt. Lakshmidevi,
d/o late Guruva Reddy,
Aged about 50 years.
7. Narayana Reddy,
s/o late Guruva Reddy,
Aged about 48 years.

8. Nagabhusnam Reddy,
s/o late Guruva Reddy,
Aged about 46 years.

Defendants no.3 to 8 are
R/at Soorapalli Village,
Robertsonpet Hobli,
KGF Taluk.

3. Plaintiff no.3 has filed an affidavit accompanying the said IA averring that, the defendant no.2 is dead and the proposed defendant no.3 to 8 are the legal heirs of deceased defendant no.2 and successors to his estate and are the necessary parties in the above suit and if the said application is not allowed, they would be put to hardship and hence pray the court to allow IA. no.II.

4. Proposed defendant no.3 to 8 have filed objection to the said IA interalia admitting the death of defendant no.2 and that, they are the legal representatives and successors to the defendant no.2. They contend that, the defendant no.2 died on 05-02-2018 and the present suit is filed on 28-04-2018 and as the suit is filed against the dead person, this suit has to be rejected. Further there is no cause of action and they are neither necessary nor proper parties to this suit. The defendant no.2 was in possession and enjoyment of Sy. no. 51/2 situated at Surapalli village, Robertsonpet hobli, Bangarpet taluk

and the vendor of defendant no.2 has confirmed the possession of 2nd defendant through registered sale deed dated 02-05-2013 and all the relevant documents are standing in the name of 2nd defendant. The 2nd defendant died on 05-02-2018 leaving behind the proposed defendant no.3 to 8 to succeed to his estate morefully to the suit schedule property and defendant no.3 to 8 are in the possession and enjoyment of the suit schedule property and there is no sufficient cause shown in the said application. Hence pray the court to reject IA. no.II.

5. Heard both and perused the materials on record.

6. On perusal the following points arise for my consideration:-

Point no.1: Whether the plaintiffs have made out the ground to allow IA. no.II?

Point no.2: What order ?

7. On perusal of the materials on record and after hearing the arguments canvassed by both the counsels, my findings for the above points are as under:-

Point No.1 : In the Affirmative.

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

REASONS

8. POINT NO.1:- Plaintiffs have filed this suit against the defendants for relief of declaration, permanent injunction and to declare the registered sale deed dated 02-05-2013 in favour of defendant no.2 as null and void and have filed the present application to implead the proposed defendants as defendant no.3 to 8. In the affidavit accompanying the present application, plaintiff no.3 avers that, the defendant no.2 is dead and proposed defendant no.3 to 8 being his legal representatives needs to be impleaded and are the necessary parties to this suit. The proposed defendant no.3 to 8 have not denied the death of defendant no.2 but, only states that, the said defendant no.2 died on 05-02-2018 i.e., prior to the filing of this suit and hence suit against dead person has to be rejected. Though the proposed defendant no.3 to 8 have contended that, the defendant no.2 has died on 05-02-2018 viz prior to the institution of this suit, no document is produced at this juncture in his regard to substantiate the same.

9. Further the defendant no.3 to 8 have admitted that, they are the legal representatives of defendant no.2 and contends that, 2nd defendant was in the possession of the suit property which was confirmed by the sale deed

and he died leaving behind these proposed defendant no.3 to 8 to succeed to the suit property and they are in the possession and enjoyment of the suit property. As plaintiffs have filed this suit to declare them as the absolute owners of the suit property and as proposed defendant no.3 to 8 in the above objection contends that, they have succeeded to the suit property from the defendant no.2 and are in its possession, there appears to be dispute between the plaintiffs and proposed defendants regarding there respective right over the suit property and this infact show the existence of cause of action and that, the said defendant no.3 to 8 are necessary parties to this suit whose presence would be necessary for effective and complete determination of this suit.

10. Further plaintiffs have filed this suit against the defendant no.2 to declare his sale deed dated 02-05-2013 as null and void in respect of the suit property and as proposed defendant no.3 to 8 have contended that they are legal representatives of the defendant no 2, they need to be impleaded in this suit for there well being only so that, they can put forth there version in regard with the said plea of the plaintiffs . Hence point no.1 is answered in Affirmative.

11. POINT NO.2:- In view of the discussion made above,
I proceed to pass the following

ORDER

I.A. No. II filed by the plaintiffs under
Order I Rule 10(1) and (2) r/w Sec.151 of CPC
is hereby allowed with cost of Rs.200/-.

(Dictated to the stenographer, typed by him on computer, corrected by
me and then pronounced in the open court on this the **15th day of October
2020**).

Sd/-

(NASRAT MUKHTAR AHMED KHAN)

I-Addl. Civil Judge & JMFC: K.G.F.