

KAKL510024952021



IN THE COURT OF II ADDL. CIVIL JUDGE AND J.M.F.C.,
AT : K.G.F

Present:

Smt. Shemida.K, B.A.(Law), LL.B.,
C/c II Addl. Civil Judge and J.M.F.C,
KGF

Original Suit No.299/2021

Dated this the 23rd day of July, 2025

Plaintiff : Sri.Srinivasa Naidu.C,
S/o Late Chalamaiiah Naidu,
Aged about 57 years,
R/at No.1, Sanitary Board Colony,
Robertsonpet, KGF.

(Rep. By Sri.S.N.R., Advocate)

V/s

Defendants : 1. The Deputy Commissioner,
Kolar District, Kolar.

2. The Tahsildar,
KGF Taluk, KGF.

3. The Sub-Inspector of Police,
Robertsonpet Police Station,
Robertsonpet, KGF.

4. The Sub-Inspector of Police,
Andersonpet Police Station,
Andersonpet, KGF.

(D1 to D4 by AGP.,)

IA No.5

APPLICANT : Sri.Srinivasa Naidu.C.
(Plaintiff)
V/s

OPPONENTS : The Deputy Commissioner and Others
(Defendants)

i. Provision under which the application is filed	Under Order 1 Rule 10 r/w Sec.151 of CPC filed by the plaintiff
ii. Relief sought for	To implead the proposed defendant as defendant No.5
iii. The date on which the application is filed	30.11.2022
iv. Number of the application	IA.No.5
v. The date on which the objections are filed by different opponents	28.06.2025
vi. The date on which the orders were passed on the said application	23.07.2025

ORDERS ON I.A.No.5

The counsel for plaintiff filed an application under Order 1 Rule 10 r/w Section 151 of CPC as IA No.5 seeking permission to implead the proposed defendant No.5 as defendant No.5, in the interest of justice and equity.

2. The application is supported with the affidavit of the plaintiff, wherein he has stated that he filed the present suit against defendants for the relief of permanent injunction and

other reliefs with respect of suit-schedule property. Further stated that the defendant No.1 to 4 have unnecessarily made interference over the suit schedule property, hence he has filed the present suit against them. Now he intend to add the proposed defendant No.5 as formal party as the defendant No.1 and 2 are the Government authorities. Further if this application is not allowed, he will be put to great hardship and inconvenience, per-contra, if the said application is allowed, other side will not put into any hardship. Hence prays to allow the application.

3. After the filing of present application notice issued to the proposed defendant No.5 wherein AGP has filed memo of appearance along with objection wherein it is contended that, the present application is not maintainable either in law or on facts. Further contended that during the time of filing of present suit the plaintiff intentionally not made proposed defendant No.5 as a party to the suit and at the belated stage he has filed the present application which can't be considered. Hence prays to reject the application.

4. I have heard the arguments from both the sides. Perused the documents on record.

5. Having heard and on perusal of materials on record, the following point that would arise for my consideration;

- 1) Whether the plaintiff has made out valid grounds to implead the proposed defendant No.5 as defendant No.5 as per IA.5 at this stage as prayed for?**

2) What order?

6. My finding on the above points are as follows;

Point No.1 : In the Affirmative,

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

:- R E A S O N S :-

7. Point No.1: On perusal of the materials on record it reveals that, the plaintiff has filed the suit against the defendant for the relief of permanent injunction and other reliefs. When the matter was stood for objection to IA.No.4, the present application was filed by the plaintiff and opposed by the proposed defendant No.5.

8. It is to be noted that the plaintiff has filed the present application under **Order 1 rule 10 (2) of CPC** which deals about suit in name of wrong plaintiff. Further the said provision reads as follows:

(1) Where a suit has been instituted in the name of the wrong person as plaintiff or where it is doubtful whether it has been instituted in the name of the right plaintiff, the Court may at any stage of the suit, if satisfied that the suit has been instituted thought a bona fide mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person to be substituted or added as plaintiff upon such terms as the Court thinks just.

(2) Court may strike out or add parties- *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 party improperly joined, whether as plaintiff or defendant, be struck out, and 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.*

(3) *No person shall be added as a plaintiff suing without a next friend or as the next friend of a plaintiff under any disability without his consent.*

(4) *Where defendant added, plaint to be amended—Where a defendant is added, the plaint shall, unless the Court otherwise directs, be amended in such manner as may be necessary, and amended copies of the summons and of the plaint shall be served on the new defendant and, if the Court thinks fit, on the original defendant.*

(5) *Subject to the provisions of the Indian Limitation Act, 1877 (15 of 1877), section 22, the proceedings as against any person added as defendant shall be deemed to have begun only on the service of the summons.*

9. It is pertinent to note that, as per **Order 1 Rule 10 of CPC**, Court may at any stage of proceeding permit the parties

to add or strike out the parties for the determination of the real matter in dispute. Further the plaintiff can't be compelled to fight against a person whom he does not wish to fight and against whom he does not claim any relief. The above said provision is very wide and the powers of the Court are equally extensive. Further the object is to bring before the Court all persons at the same time with respect of suit-schedule property to avoid multiplicity of proceedings.

10. Further the plaintiff also filed the said application under Sec.151 of CPC which deals about saving of inherent powers of the Court which reads as follows: *"Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice, or to prevent abuse of the process of the Court"*. The above said section clearly shows the discretionary power of the Court to pass appropriate order in the interest of justice if there is no provision in the CPC.

11. In the application the plaintiff stated that at the time of filing of the suit he has not made proposed defendant No.5 as party to the suit as defendant No.1 to 4 have interfered his possession. The proposed defendant is formal and necessary party to decide the subject matter of the suit. Per contra AGP contended that the present application filed at the belated stage and the plaintiff intentionally not added proposed defendant No.5 while filing the suit.

12. Admittedly it is suit for permanent injunction and as per law whenever the plaintiff making the Government

authorities as party to the suit then automatically it has to be filed against Chief Secretary of Government of Karnataka itself. In this case the Deputy Commissioner and Tahsildar as party to the suit as defendant No.1 and 2. Hence the said proposed defendant appears to be proper party. It is true that while filing the suit the plaintiff not made proposed defendant No.5 as party to the suit which can be rectified by allowing the said application. Hence on considering all these aspects it is appropriate to consider the prayer of plaintiff as the proposed defendant No.5 is necessary party to the suit. Further at this stage the applicant has made out grounds to consider his prayer as the proposed defendant No.5 appears to be proper party. Hence I answer **Point No.1 in the Affirmative.**

13. Point No.2 :- With these observations, I proceed to pass the following;

:-: O R D E R :-:

The I.A.No.5 filed by the plaintiff under Order 1 Rule 10(2) r/w Sec.151 of CPC is hereby allowed with a cost of Rs.200/-.

The proposed defendant No.5 is hereby made as defendant No.5 in this suit as prayed by the plaintiff.

(Dictated to the Stenographer directly on computer and revised and corrected by me then pronounced in the open court, this the 23rd day of July, 2025)

Sd/-

(SHEMIDA.K)

**C/c II Addl. Civil Judge & JMFC
KGF**