

KAKL510018392018



IN THE COURT OF THE II ADDL. CIVIL JUDGE & JMFC
AT K.G.F.

Dated this the 01st day of October 2021

:: PRESENT::

KIRAN S.P., B.B.M., LL.B.,
II Addl. Civil Judge, K.G.F.

OS No 462/2018

Plaintiff : - Sri.Munawar.P & another

V/s.

Defendants :- Govt. P.U.College & others

Cause Title On IA NO. V

Applicant: -

- 1. Sri. Munawar.P,,**
S/O.Late. Pyarajan,
Aged about 47 years,
- 2. Sri. Amjad Pasha,**
S/O. Late. Pyarajan,
Aged about 36Years,
R/at. Sundarapalya Village,
Kyasamballi Hobli,
KGF Taluk.

(By Smt. S.A.H., Advocate)

V/s.

Respondents:-

Chief Secretaty,
Government of Karnataka
Vidhana Soudha,
Room no. 320, 3rd floor,
Vidhanasoudha,
Bangalore-01.

(By Learned APP, Advocate)

: ORDER ON IA NO.V :

This is an application filed by the plaintiffs U/O 1 rule 10(2) R/W sec. 151 of CPC requesting the court to implead the proposed defendant no.4 as defendant no.4 in the suit for effective adjudication of dispute involved in the suit.

02. In the accompanying affidavit of IA, it is stated that the defendants have taken a contention in their oral arguments that the proposed defendant is also necessary party to the proceedings as the defendants are representing government and the proposed defendant is just a necessary party and in pursuance of the oral submission by the defendant counsel and in the pleading. The proposed defendant no.4 is just and necessary party to the proceedings and impleading the proposed defendant no.4 has been necessitated by the factual situation of the case and the proposed defendant no.4 is made as party to the proceedings as the said person is indispensable party to the proceedings and if the application is allowed no prejudice would be caused to the proposed defendant no.4 and if the application is not allowed he will be put to irreparable loss, injury and inconvenience which shall not be compensated in any terms. On these grounds they pray for allow the application.

03. On service of notice on IA no. V to proposed defendant no.4, the learned APP has filed memo of appearance. But not filed any objections to IA no. V.

04. Heard both side.

05. The points that would arise for my consideration is;

Point No.1: Whether the plaintiffs have made out sufficient grounds that the proposed defendant is necessary party for fair and effective adjudication of the case ?

Point No.2: What order?

06. The findings on the above points are as follows;

Point no.1: In the Affirmative

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

REASONS

07. Point no.1: As could be seen from materials available on record it shows that the plaintiff has filed the suit for the relief of declaration of title and permanent injunction with respect to suit schedule property against the principal, the head master and one teacher of govt. high school of Sundarapalya village & Post, KGF taluk, i.e., defendant no. 1 to 3. Admittedly defendant no. 1 to 3 are government servants. As per section 79 and 80 of

CPC, in the case of a suit by or against the state government or central government the secretary of that government will be the necessary party to the suit. At the time of filing of this suit the plaintiff has not impleaded the chief secretary or District collector of the district as not party to the suit. Now the plaintiff is intended to implead the chief secretary of Government of Karnataka to the party to the suit as defendant no.4. If the application filed by the plaintiff U/O 1 rule 10(2) R/W Sec. 151 of CPC is allowed no hardship will be caused to proposed defendant. On the other hand if the application is not allowed much inconvenience will be caused to plaintiff. Hence proposed defendant is necessary party to the suit. Accordingly Point no.1 is answered in the Affirmative.

08. **Point No.2:** For the foregoing reasons I proceed to pass the following;

ORDER

I.A no. V filed by the plaintiffs U/O 1 rule 10(2) R/W Sec. 151 of CPC is hereby allowed.

The plaintiffs are directed to implead the proposed defendant no.4 as defendant no.4 in the suit by carry out necessary amendment to plaint.

(Dictated to the stenographer, transcribed by her, corrected and then pronounced in the open Court on this the 01st day of October 2021)

**Sd/-
(KIRAN S.P)**

II Addl. Civil Judge & JMFC,KGF