

ORDERS ON IA No.6

The Appellant has filed the present application under order 1 Rule 10 R/W/S 151 of CPC implead him as proposed respondent No.10 in the appeal.

2. In the affidavit filed to the present application, he has stated that the suit schedule item No.12 property in OS No.69/2014 is his self acquired property. The revenue records are standing in his name. He became the absolute owner in possession of the said property to gift deed dated 16.02.2021 executed by the respondent No.7 of this appeal. It was originally purchased by the respondent No.7 from the respondent No.1 through sale deed dated 05.04.2007. The applicant was not aware of the decree passed in OS No.69/2014. He came to known about decree recently. The applicant was not a party in the suit. Therefore, the Judgment and decree will not bind him. Hence, the present application is filed to implead him as

party in the appeal to adjudicate his right on suit schedule item No.12 property.

3. The Appellants have not objected the present application inspite of grant of sufficient time.

4. Heard and perused.

5. The point that arises for my consideration is as follows ;

Whether the applicant is necessary party to the appeal?

6. My answer to the above point is in the **Negative** for the following;

REASONS

7. OS No.69/2014 was filed for Partition and separate possession. The Trial court has decreed the suit of the plaintiff in part by holding that the plaintiff and defendant No.1 to 3 are entitled to 1/4th share each in suit schedule item No.3 to 7 and 12 properties. The applicant is claiming that he is the donee of the suit schedule item No.12 property through registered gift deed dated 15.02.2021 executed by the defendant No.7. The alleged gift deed is executed during the pendency of the original suit. As per the provisions of section 52 of the Transfer of Property Act, 1882, if any property is transferred during the pendency of any suit, the transfer is subject to the decree of the court. Therefore, the transferee, who is the applicant herein, is bound by the decree passed in OS No.69/2014. He can not claim independent right over the property gifted to him

during the pendency of the suit. Therefore, the present applicant is not necessary party to the appeal which is filed against the Judgment and decree passed in OS No.69/2014. Accordingly, the above point is answered in the ***Negative***. Hence, this court proceeds to pass the following:

ORDER

IA No.6 filed under section 151 of
CPC is hereby rejected.

For appellant arguments
22.11.2025

**I Addl. Senior Civil Judge & JMFC.,
Maddur.**