

COMMON ORDERS ON IA No.12 AND 13

IA No.12 is filed by the plaintiff under Order 6 Rule 17 of CPC seeking amendment of plaint to include a property to the suit schedule.

IA No.13 is filed by the plaintiff under Order I Rule 10 (2) of CPC to implead the purchasers as proposed defendant No.6 to 8 in the suit.

2. Similar affidavits are filed by the plaintiff to the above applications and stated that she has filed the present suit for partition and separate possession. At the time of filing the suit she has furnished documents in respect of entire joint family properties to her counsel. But the defendant No.2 without the knowledge of the plaintiff sold the property to be included in the plaint in favour of one Marilingegowda @ Chikkonu S/o Chikkapanchaiah through sale deed dated 30.03.2005. The said purchaser sold the property in favour of one Siddachari S/o Siddachari through registered sale deed dated 06.02.2006. He is in possession and enjoyment of the same. The plaintiff came to known about said fact about recently. The defendant No.2 had no right to execute sale deed. The said property is also ancestral and joint family property of the plaintiff and defendants. Therefore, it is necessary to include the said property in the suit and to implead the purchasers as defendant No.6 to 8 in the suit.

3. The proposed defendants No.6 to 8 have objected the above applications by filing statement of objections and contended that the property to be included in the suit is not ancestral and joint family property of the plaintiff and defendants. It was ancestral property of the father of the defendant No.1. It was given to the share of the defendant No.1 from her father. Since the defendant No.1 was illiterate, she was dealing with the property along with her husband by getting joint khatha into her name and her husband name. After the death of her husband, the defendant No.1 got transferred khatha of her properties in favour of the defendant No.2. The defendant No.2, for his family legal necessity and with the consent of the defendant No.1, sold the said property in favour of proposed defendant No.6. The proposed defendant No.6 and 7 sold the same in favour of proposed defendant No.8 on 06.02.2006 through registered sale deed. At present the proposed defendant No.8 is in possession of the same. The plaintiff and defendants have knowledge about the above transactions. They have filed the above applications with malafide intention to grab the property. Therefore it is prayed to reject the above applications.

4. Heard and perused.

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

1. Whether the plaintiff has made out sufficient grounds to amend the plaint at this stage?

2. Whether the plaintiff has made out that proposed defendant No.6 to 8 are necessary parties to the suit?

6. My answer to the above points is in the **Affirmative** for the following ;

REASONS

7. IA No.12 is filed to include a property to the suit schedule. IA No.13 is filed to implead the purchasers of the said property as parties in the suit. In the affidavit filed to the applications, it is stated that the defendant No.2 without the knowledge of the plaintiff sold the property in favour of the defendant No.6. Thereafter, the defendant No.6 and 7 sold the property in favour of the defendant No.8. In the objections filed by the proposed defendant No.6 to 8, it is contended that the property sought to be included was the ancestral property of the defendant No.1 and it was sold in favour of the proposed defendant No.6 by the defendant No.2 with the consent of the defendant No.1 for family legal necessity. Whether the said property was absolute property of the defendant No.1 or ancestral property of the plaintiff and defendants is a matter of trial. In order to decide the same, permitting the plaintiff to add the said property in the suit is required. At present suit is filed for partition and separate possession in the year 2021. As per the amended provisions of Order VI Rule 17 of the CPC the party seeking amendment, after commencement of trial, shall establish that, inspite of his due diligence, he could not raise the matter earlier. In the affidavits filed to the present applications, it is stated that the

property sought proposed to be included in the plaint was left out at the time of filing suit. It is also stated that the defendant No.2 without the knowledge of the plaintiff sold the property sought to be included in the suit. The said reasons are sufficient to hold that the plaintiff was due diligent. But there is delay. Therefore, this Court is of the considered view that, the present applications are liable to be allowed with costs. Accordingly, the above point is answered in the **"Affirmative"**. Hence, this court proceeds to pass the following:

ORDER

IA No.12 filed under Order 6 Rule 17 of CPC is hereby allowed with costs of Rs.500/-.

IA No.13 filed under Order 1 Rule 10(2) of CPC is hereby allowed with costs of Rs.500/-.

Plaintiff is permitted to amend the plaint and to implead the proposed defendants No. 6 to 8 as defendants No. 6 to 8 in the suit.

**For amendment and for amended plaint.
Call on 02.04.2026**

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

Ready