

ORDERS ON IA NO.9

This application is filed by the plaintiff under order 1 Rule 10 (2) R/W/S 151 of CPC to implead the person named in the application as defendant No.13 in the case.

2. In the affidavit filed to the application it is stated that the present suit is filed for partition and separate possession. The defendant No.11 has let out suit schedule property to the proposed defendant No.13 on monthly rent and he is receiving the rent. The defendants have no right to let out joint family property. The rights of the parties have to be decided by the court. The proposed defendant No.13 have no right to pay the rent to defendant No.11. The plaintiff has requested the proposed defendant No.13 not to pay rent to the defendant No.11 and to deposit the same in the court. But he has refused for the same. Therefore, he is necessary party to the suit. Hence, this application is filed.

3. The defendant No.11 has filed objection to the present application and contended that he in his written statement denied the right of the plaintiff over the suit schedule property. The defendant No.11 is in possession of the same from last 60 years. He has put up many constructions and he is running several institutions. The claim of the plaintiff is yet to be adjudicated. Therefore, tenant of the defendant No.11 cannot be impleaded in the suit.

Hence, it is prayed to dismiss the present application.

4. Heard and perused.

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

Whether the plaintiff has made out that the proposed defendant No.13 is a necessary party to the suit?

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

REASONS

7. The present suit is filed for partition and separate possession. The defendant No.11 in his written statement made rival claim on the suit schedule property. It is it's main contention that the suit schedule properties are the absolute properties of defendant No.11 institution, which derived the title from its original owner. Until the rival claims of the parties is adjudicated, impleading tenant under defendant No.11 as defendant No.13 in the suit is not required. If the plaintiff establishes his right over the suit schedule property, he can very well claim *mesne profit* from the defendant No.11. The main dispute between the plaintiff and defendant No.11 is about title of the suit schedule properties. The defendant No.11 is not joint family member of the plaintiff's family. Therefore, tenant under defendant

No.11 is neither necessary nor property party. Accordingly, the above point is answered in the ***“Negative”***. Hence, this court proceeds to pass the following:

ORDER

IA No.9 is filed Under order
1 Rule 10 (2) R/W/S 151 of
CPC is hereby rejected.

For plaintiff evidence. Call
on 02.04.2026

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