

ORDERS ON IA No.XI

The Learned counsel for the 2nd defendant has filed an application under Order I Rule 10(2) R/w section 151 of CPC, seeking transpose him as plaintiff No.2 in this suit.

The defendant No.2 has filed an sworn affidavit in support application wherein, the plaintiff has filed this suit against the defendants for the relief of partition and separate possession over the suit schedule properties. One Chikkalingegowda had 2 wives namely Honnamma and Chowdamma. Shivalingegowda, Muddalingegowda, Annegowda and Doddathayamma are the children born through 1st wife Honnamma. Puttaswamygowda, Siddegowda and Siddalingegowda are the children born through 2nd wife Chowdamma. The 2nd defendant recently impleaded in this suit. The plaintiff and 1st defendant colluded with each other filed compromise petition before this court, the same was allowed. On the application of defendant No.2, case was restored. The plaintiff has no interested to proceed with the suit. Hence, the defendant No.2 is intended to transpose as plaintiff No.2 in this suit. **Hence filed this application.**

The sufficient opportunity given to plaintiff to file an objection to application. The plaintiff has failed to file an objection to application.

Heard the arguments from the learned counsel for the 2nd defendant.

This court has perused the material available on record. The plaintiff has filed this suit against the defendants for the relief of partition and separate possession over the suit schedule properties in the year 2017. During the pendency of the suit, on 14.11.2022, the defendant No.2 impleaded in this suit. On 08.03.2025, the plaintiff counsel has filed a memo seeking dismiss the suit as settled. Accordingly, the present suit was dismissed. Thereafter, the defendant No.2 has filed an application for restore the suit. The said application came to be allowed on 10.10.2025. Accordingly, the present suit was restored. Thereafter, the plaintiff has filed an application seeking permit to withdraw the suit. The said application also dismissed by this court on 03.12.2025. The plaintiff has failed to file amended plaint till today as per the Order of IA No.VI to VIII. Already 9 years over from the date of filing of the suit. It is show that, the plaintiff has no interested to proceed with the case. In the suit for partition, the rank of the parties one and the same. Now, the defendant No.2 is

intended to transpose as plaintiff No.2 to proceed with the suit. The application filed by the defendant No.2 is deserves to be allowed. Hence, this court has proceed to pass the following:

ORDER

IA No.XI filed by the defendant No.2 under Order I Rule 10(2) R/w section 151 of CPC is hereby allowed.

No order as to cost.

The defendant No.2 is transposed as plaintiff No.2 in this suit.

The plaintiff is directed to amend the cause title of the plaint and to furnish the amended plaint by

**Senior Civil Judge and JMFC.,
Malavalli.**