

KAMD400006572018



**IN THE COURT OF THE SENIOR CIVIL JUDGE &
JMFC, AT MALAVALLI.**

PRESENT: SRI. MAHENDRA. M B.A, LL.B.,
Senir Civil Judge & JMFC,
Malavalli.

Dated this 07th day of November 2024

O.S. NO. 55/2018

PLAINTIFFS : Smt. Chowdamma and another

-V/s-

DEFENDANTS : Smt. Gowramma and others

I.A.No.XIII

**APPLICANTS/
DEFENDANT No.2:**

Sri. S. Siddaraju,
S/o Siddegowda,
Aged about 42 years,
R/at Pandithahalli Village,
B.G. Pura Hobli, Malavalli Taluk,
Mandya District.

(By. Sri. P.S.M.K., Adv.,)

V/S

**OPPONENTS/
PLAINTIFFS:**

1. Sri. Devegowda @ Rajappa,
S/o Late Sannegowda,
Aged about 80 years,

2. Sri. Ningegowda,

S/o Devegowda @ Rajappa,
Aged about 35 years,
3. Sri. Devegowda @ Swamy,
S/o Devegowda @ Rajappa,
Aged about 40 years,

I	<i>Provision under which the application is filed</i>	<i>u/o I Rule 10(2) of CPC</i>
II	<i>Relief sought for</i>	<i>Implead proposed defendants as defendants</i>
III	<i>The date on which the application is filed</i>	<i>04.03.2022</i>
IV	<i>Number of the application</i>	<i>I A No.XIII</i>
V	<i>The date on which the objection are filed by deferent opponents</i>	<i>Objection not filed</i>
VI	<i>The date on which the orders were passed on the said application</i>	<i>07.11.2024</i>

(Sri. Mahendra M.)
Senior Civil Judge & JMFC.,
Malavalli.

ORDERS ON I.A No.XIII

The learned counsel for the defendant No.2 has filed an I.A. No.XIII under Order I Rule 10(2) R/W/S 151 C.P.C seeking implead the proposed defendants as defendants in this suit.

2. The plaintiff No.2 has filed an sworn affidavit in support of application wherein, the plaintiffs have filed this suit for the relief of partition and separate possession over the suit schedule properties. The

proposed defendant No.1 had purchased the property from brother of the plaintiff No.1 in survey No.119/4C to the extent of 10 guntas under registered Sale Deed dated 18.07.2011. The 2nd proposed defendant has constructed the house in the said property and the remaining portion of the vacant property is in the possession of the proposed defendant No.3. The plaintiffs have suppressed the said fact before this court. The proposed defendant No.1 and one Kempegowda had jointly purchased the property in Sy.No.87/1A, Sy.No.87/1A2 and Sy.No.87/1B2 and also Sy.No.86/1A through registered sale deed. The proposed defendant No.1 has adopted the 3rd defendant through registered adoption deed. The plaintiffs have not implead the proposed defendant as a parties to the suit. If this application is not allowed the defendants will be put to irreparable loss and injury which cannot be compensated. **Hence filed this application.**

3. The plaintiffs have not file an objection to IA No.XIII.

4. Heard the arguments from learned counsels for plaintiffs and defendants.

5. The following points are arise for consideration of this court:-

POINTS

- 1. Whether the defendant No.2 proves that proposed defendants are the necessary parties to the suit for effective adjudication of the matter in dispute?**
- 2. What order?**

6. This court has perused the material available on record. The findings of this court on the above points as follows:-

Point No.1 : In the Negative
Point No.2 : As per the final order for the following:-

R E A S O N S

7. **POINT NO.1**:- The defendant No.2 has filed present application seeking implead the proposed defendants in this suit. The plaintiffs have filed this suit for the relief of partition and separate possession over the suit schedule properties. As per the affidavit averments of defendant No.2 the proposed defendants are the necessary parties to the suit. The defendant No.2 in this regard not produced relevant documents before this court.

8. At this stage, it is not come to the conclusion that the proposed defendants mentioned by the defendant No.2 are necessary parties to the suit. If the

plaintiffs does not had necessary parties to the suit, the suit will be dismissed for the said reason. The prima facie show that the proposed defendants are not necessary parties to the suit. The said fact has to be decided after the full-pledged trial. If the said proposed defendants to be necessary parties to the suit, the plaintiffs have right to join them to the suit. With this stage, the application filed by the defendant No.2 is not maintainable under law the same is liable to be dismissed. **With these observations this court has answer the point No.1 in the Negative.**

9. Point No.2:- In view of above discussion this court proceeds to pass the following:-

O R D E R

I.A. No. XIII filed by the learned counsel for the defendant No.2 Under Order-I Rule-10 (2) R/W/S 151 of C.P.C., is hereby dismissed.

No order as to cost.

(Dictated to the Stenographer and transcribed by her, Order corrected and signed by me, then pronounced by me in the Open Court on this the **07th day of November, 2024**).

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