

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.XIV

**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. Smt. Chowdamma
W/o Devegowda @ Rajappa,
aged about 58 years,
R/at Pandithahalli Village,
B.G. Pura Hobli, Malavalli Taluk,

Mandya District.
General Power of Attorney Holder by
Sri. P. Siddegowda,
S/o Devegowda @ Rajappa,
Aged about 40 years,
R/at Pandithahalli Village,
B.G. Pura Hobli, Malavalli Taluk,
Mandya District.

2. Lakshamma,

W/o Late Mayappa,
D/o Devegowda @ Rajappa,
aged about 48 years,
R/at Jagaganapura Village,
Hittanahalli Post,
Kirugavalu Hobli, Malavalli Taluk,
Mandya District.

(By Sri. K.D.N., Advo.,)

I	<i>Provision under which the application is filed</i>	<i>u/o 6 Rule 17 read with Section 151 of CPC</i>
II	<i>Relief sought for</i>	<i>Permit to amend the plaint by insert the proposed properties</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.XIV</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.XIV

The learned counsel for the defendant No.2 has filed an I.A. No.XIV under Order VI Rule 17 R/W/S 151

C.P.C seeking implead the proposed properties in the suit.

2. The defendant 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 defendant No.2 already filed an application under Order I Rule 10 (2) R/W/S 151 of CPC before this court. The proposed properties are the necessary properties to the suit. The plaintiffs have not impleaded the necessary parties as stated in the impleading application by the defendant No.2. If this application is not allowed the defendant No.2 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 application.

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

POINTS

- 1. Whether the proposed properties are necessary properties to the suit of the plaintiffs?**
- 2. What order?**

5. Heard the arguments from learned counsels appears on behalf of the parties to the suit.

6. This court has perused the material available on record. The findings of this court in 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 properties in this suit. The plaintiffs have filed present suit for the relief of partition and separate possession over the suit schedule properties. The impleading application filed by the defendant No.2 has been dismissed by this court. On the basis of impleading application the defendant No.2 has filed the present application. The defendant No.2 has no locus-standy to filed this application as well as amend the plaint.

8. At this stage, it cannot come to the conclusion that the proposed properties are necessary properties to the suit. If the plaintiffs does not had necessary properties to the suit, the suit will be dismissed for the said reason. The defendant No.2 has produced xerox copies of Mutation registered extracts along with application. In this stage, cannot come to

the conclusion that the proposed properties are the ancestral and joint family properties of parties to the suit. It is decided after full-pledged trial. If the plaintiffs have not implead the necessary properties, the suit will be dismissed on the said ground. In this situation the application filed by the defendant No.2 is not maintainable under the law. **With these averments this court has answered the point No.1 in the Negative.**

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

ORDER

I.A. No. XIV filed by the learned counsel for the defendant No.2 Under Order-VI Rule-17 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.**