

**IN THE COURT OF THE PRL. CIVIL JUDGE & J.M.F.C,
SRIRANGAPATNA.**

O.S. No. 89/2010

Plaintiffs : Smt. Rukmini

V/s

Defendants : Smt. Narasamma and Others.

Applicant : Sri. Ashwathnarayana
S/o Kullegowda @ Nanjegowda,
62 years, Maruvanahalli Village,
K.R.Pete Taluk, Mandya District.

**ORDERS ON I.A. FILED UNDER ORDER 1 RULE 10(2) OF
CPC OF CPC.**

The applicant has filed the above application praying to implead him as defendant in the above case.

2. The gist of the application is as follows;

The applicant sworn to an affidavit stating that his father Kullegowda @ Nanjegowda purchase suit Item No.1 Prakash and another on 02-02-1999 for valuable consideration . From the date of purchase he was in possession and enjoyment of said property. After his death this applicant he is possession of the same. The plaintiff without the knowledge of this applicant they have impleaded the said property subjecting for partition. Further, plaintiff has not made the father of applicant as party to the suit . If the application is not allowed the applicant will be put to great hardship and injustice. Hence, prays to allow the application

3. The plaintiff filed objections wherein they have denied the statement of applicant and further contended that this applicant have not purchased the suit Item No.1 and they have not produced any documents in orders to delay the suit this application is filed. The applicant is not a proper or necessary party to this suit. Hence prays to the reject the application with costs.

4. Heard the arguments.

5. The points that arise for my consideration are here under:-

1. Whether the applicant makes out sufficient cause to add him as proposed defendant No. 13 as necessary and proper party in the above case?

2. What Order?

6. My findings to the above said points are as follows :-

Point No.1 :- In the Affirmative.

Point No.2 :- As per the final Order,

for the following :-

REASONS

7. **Point No.1** :- The plaintiff has filed the suit against the defendants for partition and separate possession of her legal share in the suit schedule properties. The defendants on appearance before the court denied the entire suit averments further contended that the suit is bad for non-joinder of necessary parties and properties.

8. On perusal documents produced by plaintiff and the applicant it discloses that the father of this applicant by name Sri. Kullegoweda @ Nanjegowda purchase property bearing Sy.No.136/2A an extent of 22 guntas. He has also produced RTC extracts to show his possession over the suit item No.1.

9. Thus, the said applicant's father as purchased suit Item No.1 to valuable consideration Khatha said property is in the name of applicant. Further the plaintiff claimed partition in the entire extended of suit Item NO.1 . Therefore, the applicant is the proper and necessary party to this suit. Otherwise the applicant will be put to great hardship and injustice and it may leads to multiplicity of proceedings between the parties.

10. The expression question involved in the suit in Order 1 Rule 10 means not merely the questions, which are involved in the suit as between the parties originally, impleaded. The object of the provision is that the real dispute revised in the suit should be decided in the presence of all the parties. Interested in the dispute for that purpose, they should be brought before the Court. Order 1 Rule 10 was framed in order to ensure that, the dispute might be finally determined at the same time in the presence of all the parties. Interested without the delay and expense of several actions and trials and inconclusive adjudication.

11. Hence, there is no impediment or prejudice to plaintiff if the proposed defendant is added as party to the above proceedings. In view of it, I answer Point No.1 in affirmative.

12. **Point No.2** :- In the light of discussion made above, I proceed to pass the following:-

ORDER

I.A. filed by the applicant under Order 1 Rule 10(2) of CPC is hereby allowed.

The proposed defendant shall be added as defendant No.13 in the above case.

The plaintiff shall carry out amendment accordingly and to furnish the amended plaint immediately.

Call On : 01.02.2021

Prl. Civil Judge & JMFC,
Srirangapatna.