

KAMS010067532023



**IN THE COURT OF THE I ADDITIONAL DISTRICT &
SESSIONS JUDGE AT MYSURU**

Dated this the 6th day of September 2025

PRESENT

SRI D.PUTTASWAMY, B.A., LL.B.,
I Addl. District & Sessions Judge, Mysuru

: RA/216/2023 :

Appellant/s : Lakshamma
(By **Sri C.M.Jagadeesh**, Adv.)
V/s.
Respondent/s : Sri Lingaiah and MUDA
[R1 By Sri V.S., Adv.]
R2 by **K.Kodandarama**, Adv.]

Parties to I.A.No.III

Applicant/s Mariswamy S/o Late Mallegowda,
aged about 51 years, R/o LIG 55,
KHB Colony, 3rd Stage,
Kuvempunagara, Mysuru-570023.
[By Sri M.Mahadevaswamy, Adv.]
V/s.
Opponents/ Lakshamma

appellant

Appellant

ORDERS ON I.A.III

I.A.No.III is filed under Order 1 Rule 10(2) CPC R/w.Sec.151 of CPC by the applicant by name Mariswamy seeking an order to implead him as proposed respondent No.3 in the above case.

2. In the accompanying affidavit to IA No.III, the applicant has stated that subject matter of the appeal schedule property was purchased by him from Lingaiah through a registered Sale Deed dt:12.10.2018 and from the date of purchase, he is in peaceful possession and enjoyment of the same. He is intending to put up structure in the suit schedule property. He obtained plan and licence in the month of March 2022 and while digging a pit in the suit schedule property, the appellant along with one Sudhamani started to interfere with his construction work in the suit schedule property. In that connection, he has filed a suit against the appellant and said Sudhamani before III Additional Civil Judge & JMFC, Mysuru in O.S.No.662/2022 for the relief of permanent injunction, which came to be decreed in his favour, challenging the

same, the appellant preferred an appeal in R.A.No.183/2023 on the file of II Additional Senior Civil Judge, Mysuru, which is pending for adjudication. The appellant preferred the present appeal against the Judgment and decree passed in O.S.No.917/2013 and 918/2013 on the file of II Additional Senior Civil Judge, Mysuru, purposefully she has not made him as party to the appeal, even though she is aware that he is the purchaser of the said property from the respondent No.1 and after obtaining the decree in O.S.No.662/2022, he had put up a structure in the suit schedule property and he is in possession and enjoyment of the same. The appellant by suppressing the said fact and in order to have wrongful gain, not impleaded him in the present case. As he is the owner in possession of the schedule property, he is also necessary party to the appeal. Hence, prayed to allow the application.

3. The counsel for appellant has filed objections to the above application contending that the applicant has no locus standi to file this application. He was not a party before the Trial Court, he is not having any right, title and interest over the schedule property. The applicant is no

way concerned with the decree passed by the Trial Court, therefore, question of impleading him in this appeal would not arise. The appellant has denied that the applicant is the purchaser of the schedule property and stated that the dispute only between herself and Lingaiah. Now, the appellant has challenged the Judgment and decree passed in O.S.No.917/2013, therefore, the question of impleading him as party to the proceedings does not arise, as such he is not a necessary party in this case. Hence, prayed to dismiss the application.

4. Heard the arguments of learned counsel for applicant and appellant. I have perused the records.

5. In view of the above facts and circumstances, the points that arise for my consideration are:

1. Whether the applicant has made out grounds to implead him as proposed respondent No.3 in this appeal ?

2. What order?

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

Point No.1 : In the Affirmative.

Point No.2 : As per final order for the
following:

REASONS

7. **Point No.1:** The instant appeal is filed under Order 41 Rule 1 R/w. Sec. 96 of CPC by the appellant challenging the Judgment and decree passed in O.S.No.917/2013 & 918/2013 dated 08.01.2018 on the file of II Addl. Sr. Civil Judge and CJM, Mysuru.

8. The learned counsel for applicant has submitted that after the suit in O.S.No.917/2013 and 918/2013 filed by Lingaiah i.e., respondent No.1 herein against the appellant and respondent No.2 herein was decreed, the respondent No.1 on 12.10.2018 sold the schedule property in favour of the applicant through a registered Sale Deed and since then the applicant is in possession and enjoyment of the suit property as owner thereof and therefore, the applicant is a necessary party to adjudicate the appeal effectively and conclusively.

9. On the other hand, the learned counsel for appellant submits that the applicant has no locus standi to file the application as he was not a party before the Trial

Court and he is not having any right over the suit property, the applicant is no way concerned with the decree passed by the Trial Court, as such, there is no necessity to implead him in the appeal. Further, he submits that the applicant is not the purchaser of schedule property and the dispute was only between Lingaiah and the appellant and therefore, he prays to dismiss the application.

10. In view of the submission of the counsels appearing for the parties, let us glance the provision of Order 1 Rule 10(2) CPC. Under Order 1 Rule 10(2) of CPC, the Court may at any stage of the proceedings can implead any person either as plaintiff or defendant, if his presence may be necessary to decide the matter between the parties effectually and completely.

11. In this case, the documents produced by the applicant show that after disposal of suit in O.S.No.917/2013 and 918/2013 dt:08.01.2018, filed by the respondent No.1 herein against the appellant and respondent No.2 herein, the respondent No.1 sold the schedule property in favour of the applicant through a registered Sale Deed dt:12.10.2018. As the applicant purchased the schedule property after disposal of the

suit, obviously he was not a party to that suit. Thereafter, the applicant has filed a suit in O.S.No.662/2022 on the file of III Additional Civil Judge and JMFC, Mysuru against the appellant herein and appellant in R.A.No.233/2023 for permanent injunction, which is decreed on 19.07.2023 restraining the appellants from interfering with the applicant's peaceful possession and enjoyment of schedule property. The appellants against the Judgment and decree passed in O.S.No.662/2022, have filed the appeal in R.A.No.183/2023 on the file of II Additional Senior Civil Judge, Mysuru and it is pending for adjudication.

12. That apart, the respondent No.1 addressed a letter to this Court stating that he has sold the schedule property through a registered Sale Deed dt:12.10.2018 to this applicant, after the decree passed in O.S.No.917/2013 and 918/2013 and now the applicant is constructing the building therein, after getting transferred the Khata of the same in his name and MUDA allotted an alternate site to this appellant as against the site No.1469 and despite that, the appellant has filed this appeal. In view of the above, by subsequent events, after disposal of the

O.S.No.917/2013, the applicant will step into the shoes of respondent No.1 to safeguard the interest over the schedule property.

13. It is to be noted that a person not originally a party to the suit can be included in Regular Appeal being transferee of interest. Therefore, considering the facts and circumstances of the case and submission made on behalf of the applicant and since the applicant purchased the schedule property after Judgment and decree passed in O.S.No.917/2013, he is a necessary party to this appeal, which is appealed against the Judgment and decree in the said suit and thereby, it enable this Court to decide the matter effectually and conclusively. Therefore, I answer point No.1 in the Affirmative.

14. **Point No.2:** In view of the above discussion, reason stated and finding given to Point No.1, I proceed to pass the following:

ORDER

I.A.No.III filed U/o.1 Rule 10(2)
R/w.Sec 151 of CPC by the applicant is
allowed.

The appellant is directed to carry out necessary amendment in the cause title of the appeal and to file amended appeal memorandum.

No order as to costs.

[Dictated to the Stenographer on Computer, typed script corrected and pronounced by me in the Open Court on this the 6th day of September 2025]

[D.Puttaswamy]
I Addl. District & Sessions Judge,
Mysuru.