

ORDERS ON I.A.

Sri. S.N.S., advocate for proposed defendant No.3 filed vakalath along with I.A. U/o 1 Rule 10(2) R/w sec. 151 of CPC seeking to implead the proposed defendant No.3 in the suit.

2. In the affidavit annex to the application the proposed defendant No.3 by name Somesha submitted that he is the purchaser of a site in land bearing Sy. No. 94/5 and 95 situated at Bommanahalli Village, Yelawala Hobli, Mysuru Taluk from the defendant No. 1, as such he is the necessary party to the suit. Hence, prays to allow the application.

3. On the other hand the learned counsel for the plaintiff filed objection and contended that the applicant has not produced any document to show that he has purchased a site in Sy. No. 94/5 and 95 from the defendant No. 1. To drag on the proceedings the defendant No. 1 make to file this application through stranger. Hence, prays to dismiss the application.

4. Heard both side. Perused the record.

5. Admittedly the plaintiff has filed this suit for partition and separate possession of suit schedule properties. The proposed defendant No.3 submitted that he is the purchaser of the site in Sy. No. 94/5 and 95. In order to show that he has purchased the site in Sy. No. 94/5 and 95 no documents has been produced. In the absence of any documents in support of the application it can not be held that the proposed defendant No.3 is the purchaser of site in Sy. No. 94/5 and 95 and he is the necessary party to the suit. Order sheet reveals that when the case is posted for defendant evidence. The defendant No.1 keep on filing one or the other applications without being adduce evidence on his side. Hence, the argument canvassed by the plaintiff's counsel that the defendant No.1 to drag on the proceedings maintain this applications with the stranger holds water. As aforesaid the proposed defendant No.3 has

not produced any document to show that the real question in controversy cannot be determined in his absence. Hence, this court is of the considered view that the proposed defendant No.3 has not made out ground to allow the application.

Hence, I proceed to pass the following:

**ORDER**

I.A. filed U/o 1 Rule 10(2) R/w sec. 151 of CPC filed by the proposed defendant No. 3 is hereby dismissed with cost of Rs. 200/-.

For defendant evidence finally call on 25.04.2024.

sd/-  
**Judge,**  
Court of Addl. S.C., &  
Mysuru