

Orders on IA.No.13

The applicant / proposed defendant No.3 filed I.A.No.13 U/o 1 Rule 10(2) of C.P.C. and prays to implead the applicant as defendant No.3 in the present suit.

2. The application is support by an affidavit sworn to by the applicant by name Gurumurthy.

3. On the contrary the learned advocate for plaintiff and learned advocate for defendant No.1 filed objections and prays to dismiss the application.

4. Heard, perused the materials placed on record.

5. The following points arise for my consideration:

1) Whether the application filed by the applicant / proposed defendant No.3 U/o 1 Rule 10(2) of C.P.C. is deserves to be allowed ?

2) What order ?

6. My answers to the above points are as follows:

Point No.1 : In the negative.

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

REASONS

7. **Point No.1** :- The learned advocate for applicant contended that the plaintiff has filed the present suit for partition and separate possession of suit schedule

properties. The proposed defendant No.3 is the purchaser of a Site in Land bearing Sy.No.94/5 and 95 situated at Bommenahalli Village, Yelawala Hobli, Mysuru Taluk from defendant No.1. The applicant is having right and interest over his Site bearing No.94/5 and 95. Hence in order to avoid multiplicity of proceedings he is a necessary party to the proceedings.

8. On the other hand the learned advocate for plaintiff contended that the suit is filed by the plaintiff in the year 2010 and when the case is set down for evidence of defendant side the present application filed only to drag the proceedings and he has not produced any documents in support of his application. Hence, prays to dismiss the application.

9. The learned advocate for defendant No.1 contended that the application is not maintainable either in law or on facts and the same is liable to be dismissed. The defendant No.1 has sold any land in Sy.No.94/5 of Bommenahalli Village, Yelawala Hobli, Mysuru Taluk to the applicant. As such without any material regarding transaction the proposed defendant No.3 is not proper or necessary party for adjudication. Hence prays to dismiss the application.

10. It is pertinent to note that according to the applicant he has purchased a Site in Sy.No.94/5 & 95 of Bommenahalli Village, Yelawala Hobli, Mysuru Taluk from defendant No.1. But, the applicant has not placed any document in support of his contention nor stated the exact

date of transaction between defendant No.1 and the applicant. Without any material in support of the contention of applicant it cannot be believed that he is a purchaser of suit schedule property. If at all the the applicant is a purchaser his right if any can be adjudicated even at the stage of final decree proceedings if the suit is decreed. As such the application filed by the applicant without any material particulars is deserves to be dismissed. Hence, I answer Point No.1 in the negative.

11. Point No.2 :- In view of my findings of point No.1 in the negative, I proceed to pass the following:

ORDER

The application filed by the applicant / proposed defendant No.3 U/o 1 Rule 10(2) of C.P.C. is dismissed.

Call on for defendant evidence by 22/01/2020.

**Sd/-
JUDGE,
Addl. Court of Small Causes,
MYSURU.**