

KAMS080018872021



IN THE COURT OF ADDITIONAL  
SMALL CAUSES AND SENIOR CIVIL  
JUDGE, AT MYSURU

PRESENT

Smt. ZARIFA BANU A.R. ,  
B.A.L., LL.M.

JUDGE, ADDITIONAL COURT OF SMALL CAUSES,  
MYSURU

DATED THIS THE 28<sup>th</sup> DAY OF NOVEMBER 2024

FDP/10/2021

Between:

Mumtaz Begum and others

.... **Petitioners**

And:

Meer Asif Hussain  
Since dead by LRs

.... **Respondents**

**IA NO - 3**

**S.Nanjamma**

..... **Applicant/proposed  
respondent**

**V/s**

**Mumtaz Begum  
and others**

..... **Opponents/petitioners**

**\* \* \* \* \***

**ORDERS ON IA**

IA U/O 1 Rule 10(2) of CPC filed by one Nanjamma seeking to implead her as proposed respondent in the petition.

2. In the affidavit sworn by Nanjamma the proposed respondent submitted that she has purchased the suit schedule property bearing House No.3325/72/B New house No.M-31/B measuring East West 12 feet and North South 40 feet which is the portion of the petition schedule property from her vendor Smt.Nayeem W/o Zameer Ahmed under the registered sale

deed dated 03.08.2020 for valuable consideration. Said Smt.Nayeem had purchased the said property from Sabeer Banu under registered sale deed dated 01.03.2007. Said Sabeera Banu purchased from her vendor Meer Ayub Hussain under registered sale deed dated 18.12.1997 who had acquired the same under registered partition deed dated 31.03.1997. Thus the applicant is the bonafide purchaser of the portion of petition schedule property and she is a necessary and proper party to the petition and prays to allow the application.

3. On the other hand, the petitioners have filed their objection to IA and contended that the respondents have played foul with the petitioners by selling the property during the pendency of the petition, the applicant is not a bonafide purchaser of the property and filed this application to drag on the proceedings and to harass the petitioners. The proposed respondent is not the necessary party to the

petition. Hence, prays to dismiss the application.

4. Heard arguments from both sides. Perused material on record.

5. The point for consideration arise as follows:

1. Whether the proposed respondent is necessary party to the petition and made out ground to allow the application filed U/O 1 Rule 10(2) of CPC?
2. What order?

6. The answer 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:** Admittedly the petitioners filed suit for partition and separate

possession in OS No.273/2006 the same has been decreed on 03.11.2011. In the aforesaid preliminary decree this court has decreed the suit by upholding that the petitioners are entitled for 1/6<sup>th</sup> share in the suit schedule property. However the vendor of the applicant i.e., Smt.Nayeema has shown as defendant No.9 in the said suit. No share has been allotted to the share of defendant No.9 in said judgment and decree. Furthermore with respect of the partition deed elicited by the applicant has been explicitly discussed in the said judgment and opined that the suit schedule property is the self acquired property of the propositous Meer Khalandar Husain and the plaintiffs being the grand children having 1/6<sup>th</sup> share in the share of Meer Iqbal Hussain. When such being the case based on the partition deed by Meer Ayub Hussain to Sabeera Banu and Sabeera Banu to Nayeema and in turn Nayeema to the applicant Nanjamma during the pendency of the petition is void.

8. Further it is pertinent note here that Meer Ayub Hussain who shown as defendant No.2 in the original suit has not challenged the judgment and decree. As such, the judgment and decree passed by this court reached to its finality. However said Meer Ayub Hussain got a share in the suit schedule property. As such if at all share of the Meer Ayub Hussain has been allotted in this petition the said share will go to the respondent No.9 Nayeema and in turn the same will go to the applicant Nanjamma. As such the proposed respondent is the necessary party to the proceedings. As such no prejudice will cause to the petitioners if application is allowed. **Hence, Point No.1 answered in the Affirmative.**

9. **Point No.2:** In view of above said discussion in Point No.1, I proceed to pass the following:

**O R D E R**

IA No.3 filed under Order 1  
Rule 10 (2) of CPC is hereby  
allowed with cost of Rs.500/-.

Call to carried out  
amendment and to furnish  
amended petition call on  
20.12.2024.

*(Dictated to the Stenographer directly on  
computer, typed by her, revised, corrected and then  
pronounced by me in the open Court, on this the 28<sup>th</sup> day  
of November 2024)*

**(ZARIFA BANU A.R.)**  
**Judge, Addl. Court of**  
**Small Causes, Mysuru.**