

Order on I. A.No.III

1. The application I.A.No.III is filed by the Applicant/Proposed Defendant No.2 U/o 1 Rule 10(2) of CPC to implead her as defendant No.2 in the present case.

2. The application is supported by affidavit of the Applicant/Proposed Defendant No.2 and it is sworn that she came to know about the filing of the present suit recently in respect of the schedule properties. It is stated that the plaintiff and defendant are the children of Bhogappa though his first wife by name Giddamma. The Applicant is the grand daughter of said Bhogappa and the said Bhogappa also got second wife by name Deveeramma who got a daughter by name Nagamma. The Applicant is the daughter of said Nagamma. It is further stated the schedule properties are the ancestral joint family properties of plaintiff and defendant and the Applicant also got share over properties. Hence prayed to allow the application and to implead her as defendant No.2 in the present suit.

3. The plaintiff counsel has filed objection to the application and it is stated that there is no any relationship between the proposed defendant and plaintiff. The father of the plaintiff and defendant got no second wife and the applicant has not produced any family genealogy to prove the relationship. Hence prayed to dismiss the application.

4. Heard the arguments of counsel for both parties.

5. The points that arise for consideration of this court are as under;

P O I N T S

Point No.1. Whether the Applicant has made out sufficient grounds to implead her as necessary party to the suit ?

Point No.2. What order?

6. The findings of this court on above points are as under:

Point No.1 :-In Affirmative

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

R E A S O N S

Point No.1:

7. The Applicant has filed the present application to implead her as necessary party to the suit. It is stated in affidavit accompanying to the application that the father of plaintiff and defendant by name Bhogappa got second wife by name Deveeramma and he got a daughter through his second wife by name Nagamma and the Applicant is the daughter of said Nagamma who is a necessary party to the suit and she got share over the schedule properties. The Applicant along with application, she produced the death certificate of said Nagamma who is the mother of the Applicant and on perusal of said death certificate, the father's name of said Nagamma is mentioned as Bhogappa and mother's name is mentioned as Deveeramma. The Applicant by swearing the affidavit has sworn that she is the grand daughter of said Bhogappa. On the other hand, the

plaintiff has specifically denied the said relationship of Applicant with father of plaintiff and defendant. The Applicant by producing copy of said death certificate has initially established that her mother by name Nagamma is the daughter of one Bhogappa. It is only after trial, the truth will come out that whether the Bhogappa mentioned in said death certificate is the father of present plaintiff and defendant. When the Applicant has specifically stated and sworn that she got right over suit schedule property, in order to determine her right over schedule property and also the actual relationship between the plaintiff and Applicant, it is necessary to implead her as party to the suit. If the application is rejected at this stage, more inconvenient will cause to the Applicant and she will lose her right to contest the suit and thereby establish her contention. Therefore this court comes to the conclusion that the Applicant is a necessary party to the suit. Hence for the said reasons, this court answers Point No.1 in Affirmative.

Point No 2:

8. For the reasons discussed above, this court proceeds to pass the following:

O R D E R

The application I.A.No.III filed by the Applicant U/O 1 Rule 10(2) of CPC is hereby allowed.

The Applicant is hereby permitted to implead herself as defendant No.2 in the present suit.

**The plaintiff is hereby directed to carry out
necessary amendment.**

For amendment and amended plaint.

Call on : 06.04.2024

(Dictated to the Stenographer, transcribed by him on computer, revised, corrected
and then pronounced by me in the open Court on this the 22nd day of March, 2024)

**(Sandesh Prabhu. B)
Senior Civil Judge & J.M.F.C
H.D.Kote**