

Order on I. A.No.XVIII

1. The application I.A.No.XVIII has been filed by the plaintiffs U/O 1 Rule 10(2) of CPC to implead the opponent as defendants No.4 in the present suit.

2. The said application is supported by affidavit of the plaintiff No.1(c) and it is sworn that the the plaintiffs have filed suit against defendants for the relief of declaration. It is further stated that this court has passed order on 20.02.2021 by restraining defendants from alienating the suit schedule property pending disposal of the suit. Even though the court has passed the order of injunction, the defendant No.1(b) has sold the schedule property in favour of the present opponent. It is also sworn that there is possibility by the proposed defendants to further alienate the schedule property and therefore he is the necessary party to the suit. Hence prayed to allow the application.

3. After filing of the application, notice was issued to proposed defendant and he appeared before the court through his counsel and filed objection to the application. It is stated in the objection that the defendant No.3 had executed a Registered Sale Deed in favour of the proposed defendant on 29.06.2021 in order to repay the loan incurred for the treatment of defendant No.2. It is stated that the proposed defendant has scrutinized the all the documents and after satisfied that the defendant No.3 is the owner of the property, he purchased the same. The defendant No.2 did not disclose the pendency of present suit. The proposed defendant is not a necessary party to the suit. Hence prayed to reject the application.

4. Heard the arguments of counsel for both parties.

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

Point No.1. Whether the plaintiff has made out sufficient grounds to implead the opponent as defendant No.4 and he is the 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:

REASONS

Point No.1:

7. The plaintiff has filed the present application to implead the opponent as proposed defendant No.4. It is stated in the affidavit accompanying to the application that even though there was an order of temporary injunction passed by this court, the defendant No.3 has alienated the schedule property in favour of defendant No.4 and therefore the proposed defendant No.4 is a necessary party to the suit. The plaintiff along with the application has also produced the copy of sale deed executed by defendant No.1(a) & 1(b) in favour of proposed defendant No.4 dated 29.06.2021. The proposed defendant has not denied the said execution of sale deed by the defendant No.1(a) & 1(b). The plaintiff has filed present suit for declaration and possession of the schedule property. By considering the nature of the suit and the relief claimed by the plaintiff since

the proposed defendant No.4 has purchased the schedule property by taking over the possession of the same, he is necessary party to the present suit. His presence is required to finally adjudicate the present suit. Therefore by considering reasons stated in the application the plaintiff has made out sufficient grounds to consider the present application. Hence for the said reasons this court answers Point No.1 in Affirmative.

Point No 2:

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

O R D E R

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

The plaintiff is hereby permitted to implead the opponent as defendant No.4 and carry out necessary amendment.

No order as to cost.

For amendment and amended plaint.

Call on : 15.12.2023

(Dictated to the Stenographer, transcribed by him on computer, revised, corrected and then pronounced by me in the open Court on this the 29th day of November, 2023)

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