

### **Order on I. A.No.V**

The application I.A.No.V is filed by the plaintiff U/O 1 Rule 10(2) of CPC to implead the opponent as defendant No.6 to the present case.

2. The application is supported by affidavit of plaintiff and it is sworn that the defendant No.3 in order to defeat the claim of the plaintiff got executed a Gift Deed in favour of proposed defendant No.6 who is his wife and the proposed defendant is necessary party to the application. Hence prayed to allow the same.

3. After filing the application, the notice was issued to the proposed defendant No.6 and she appeared before the court through her counsel and submitted no objection to 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 plaintiff has made out sufficient grounds that the proposed defendant is a 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 to the present suit. It is stated in the affidavit accompanying to the application that the defendant No.3 had executed Gift Deed in respect of item No.2 of schedule property during pendency of the suit and therefore she is necessary party to the present suit. The plaintiff has filed suit against defendants for the relief of partition and separate possession. The plaintiff along with application has produced copy of Registered Gift Deed dated 28.08.2023 and on perusal of said Gift Deed it reveals that the defendant No.3 had executed the Gift Deed in respect of item No.2 of schedule property in favour of proposed defendant. Since the defendant No.3 had executed said Gift Deed, the beneficiary of said Gift Deed is proper party to the suit and her presence is necessary for effective adjudication of the suit. Hence by considering reasons stated in the affidavit, the application deserves to be allowed. 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:

## **ORDER**

**The application I.A.No.V 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.6 to the present suit and carry out necessary amendment.**

**For amendment and amended plaint.**

**Call on : 04.09.2024.**

(Dictated to the Stenographer, transcribed by him on computer, revised, corrected and then pronounced by me in the open Court on this the 20<sup>th</sup> day of August, 2024)

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