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**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE
AND J.M.F.C AT HUNSUR**

Present: Smt.Anitha, B.A. (Law) L.L.B.,
Prl.Senior Civil Judge & JMFC.,
Hunsur.

Dated this the 07th day of April, 2026

OS No.114/2025

Plaintiff: Mr.Santhosh Sequiera, S/o Mr.S.A.Salu,
Aged about 40 years,
Represented by GPA Holder,
Mr.Kishan.G., S/o Mr.Ganesh.K.,
Aged about 28 years, R/at No. 40, Sulthanpalya,
2nd Cross Road, R.T. Nagar, Bangalore - 560032.

-Vs-

Defendants: 1. Mr.Govinde Gowda, S/o Mr.Kenchegowda,
Aged about 52 years,
2. Smt.Vishala, W/o Govinde Gowda,
Aged about 49 years, R/at
3. Sri.Sunil Kumar.G., S/o Govinde Gowda,
Aged about 31 years,
4. Sri.Anil Kumar.G., S/o Govinde Gowda,
Aged about 28 years,
All are R/at Manuganahalli
Village and Post, Bilikere Hobli, Hunsur
Taluk, Mysuru District.

1.	Provision under which the application is filed	:	Under Order 1 Rule 10(2) R/w Section 151 of CPC
2.	Relief sought for	:	To implead the proposed defendants as defendants No.2 to 4 in the suit
3.	The date on which the application is filed	:	12.08.2025
4.	Number of the application	:	IA No.V
5.	The date on which the objection is filed by opponent	:	19.01.2026
6.	The date on which the orders passed on the said application	:	07.04.2026

ORDERS PASSED ON I.A.NO.V

When the case is posted for settlement the learned counsel for plaintiff filed IA No.V under Order 1 Rule 10(2) R/w Section 151 of CPC to implead the proposed defendants as defendants in the suit.

2. The application is supported with the affidavit of the GPA holder of the plaintiff wherein it is stated that, the plaintiff filed suit against the defendant for the relief of specific performance of contract and recently it came to the knowledge of the plaintiff that the suit schedule property has been transferred in the name of proposed defendants through registered partition deed took place between the family of defendant, his wife and children. The partition deed has been registered before Sub Registrar of Mysore West on 03.07.2025. After partition deed the khata of the suit schedule property has been transferred into the name of proposed defendants No.3 and 4 vide MR No.H1/2025-26 dated 14.07.2025. The RTC

also got changed in the name of defendant No.3 and 4. Now the property has been phoded and new survey number i.e., Sy.No.14/16 has been given. The development has taken place after filing of the suit. It is further stated that defendant has mischievously acted and transferred the suit schedule property into the names of his children during the pendency of the suit and when the temporary injunction was granted by this court. Now it is necessary to include the proposed defendants as defendants in this suit in order to effectively and completely adjudicating the matter in dispute. Hence, prayed to allow the application.

3. After filing of the application this court issued notice to proposed defendants No.2 to 4. In pursuance of service of notice they have appeared before the court and filed the objection statement contending that the application is not maintainable under law or on facts. The plaintiff filed suit for the relief of specific performance of contract which is not at all maintainable. The proposed defendants and defendant are the family members and they have settled and partitioned the ancestral and joint family property. The suit schedule property is also joint family property of the proposed defendants and the defendant has no right to execute any deed in favour of others. The proposed defendants have every right to claim the suit schedule property. The plaintiff has no right over the property. The plaintiff has concocted and created false documents and filed the false suit. Mere hardship will not be a ground to implead the proposed defendants. Hence, prayed to dismiss the application with exemplary costs.

4. Thereafter, heard arguments addressed by learned counsels for the plaintiff and the proposed defendants and perused the case papers. After hearing the arguments and on perusal of the case papers, the points that arise for consideration are as hereunder:

POINTS

1. Whether the proposed defendants are the proper and necessary party to the suit?
2. What order?
5. The findings on the above points are as hereunder:

Point No.1: In the Affirmative

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

REASONS

6. **Point No.1:-** The plaintiff has filed the suit against the defendants seeking the relief of specific performance of contract. At the time of filing the suit, the plaintiff has maintained IA No.1 under Order XXXIX Rule 1 and 2 of CPC and on 03.04.2025 this court passed an order against the defendant restraining him from alienating the suit schedule property in favour of anybody in any manner. The said order is still existing and when the case is posted for settlement the plaintiff came up with this application stating that during the pendency of suit the defendant has got partitioned the suit schedule property between himself, his wife and children and now the khata of the suit schedule property is standing in the name of proposed defendants No.3 and 4 and the proposed defendants very much necessary party to the suit.

7. On the other-hand the proposed defendants contended that the defendant had no exclusive right over the suit schedule property and he had no right to enter into any sale agreement with the plaintiff. As such they have sought for dismissal of the application. This suit is for the relief of specific performance of contract and it is based on the registered sale agreement dated 09.03.2022 which has been entered between the plaintiff and the defendant and the said sale agreement is for total amount of Rs.90,00,000/-. As per the plaintiff averments and recitals of the sale agreement already the defendant had received advance sale consideration of Rs.30,00,000/- from the plaintiff.

8. The proposed defendants are none other than the wife and children of the defendant. In support of the application the plaintiff has produced the copy of the partition deed dated 02.07.2025 and it shows that the suit schedule property has been allotted to the share of proposed defendants No.3 and 4 and the plaintiff also produced the RTC and mutation register of the suit schedule property and it also shows that the suit schedule property is now standing in the name of proposed defendants No.3 and 4. It is the settled principles of law that a necessary party is one in whose absence the court cannot pass an effective decree at all and proper party is one whose presence before the court is necessary to ensure that all matters in dispute are effectively or completely determined. Herein this case the proposed defendants are none other than the wife and children of the defendant and during the pendency of the suit the defendant,

his wife and children have entered into partition in the family and in the said partition the suit schedule property has been allotted to the share of the proposed defendants No.3 and 4 and now by virtue of the partition deed a new right upon proposed defendants No.3 and 4 has been created by the defendant. As such the proposed defendants are proper and necessary party to the suit. In their absence the dispute between the parties cannot be effectively adjudicated. As such no hardship is going to be caused to the proposed defendants if they are brought on record. On the other-hand they will get an opportunity to defend the suit by filing written statement. Therefore this court comes to the conclusion that the proposed defendants are proper and necessary party to the suit and they need to be impleaded in the suit. Accordingly Point No1 is answered in the affirmative.

9. **Point No.2:** In view of the reasons discussed above, this court proceeds to pass following:

ORDER

IA No.V filed by the plaintiff under Order 1 Rule 10(2) R/w Section 151 of CPC is hereby allowed with the cost of Rs.200/-.

Accordingly the plaintiff is permitted to implead the proposed defendants as defendants No.2 to 4 in this suit.

(Typed by me directly on the Laptop, same is then corrected and pronounced by me in the open court on this the 07th day of April, 2026)

Sd/-

(Anitha)

Prl.Senior Civil Judge and JMFC.,
Hunsur.