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

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

Dated this the 07th day of January, 2025.

FDP No.07/2020

Petitioner: Puttalakshamma,
D/o late Bettegowda @ Rajegowda,
Aged about 48 years, R/at Siriyuru
Village, Gavadagere Hobli, Hunsur
Taluk, Mysuru District.

-Vs-

Respondents: 1. Sharadamma,
W/o Late Jayaramegowda,
Aged about 38 years,
2. Sandesh, S/o Late Jayaramegowda,
Aged about 22 years,
3. Divya, D/o Late Jayaramegowda,
Aged about 19 years,

All are R/at Atthiguppe Village,
Gavadagere 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	:	Implead the applicants as respondents No.4 to 7
3.	The date on which the application is filed	:	05.08.2024
4.	Number of the application	:	IA No.VI
5.	The date on which the objection is filed by opponent	:	04.09.2024
6.	The date on which the orders passed on the said application	:	07.01.2025

ORDERS PASSED ON IA NO.VI

Learned counsel for the applicants filed IA No.VI under Order 1 Rule 10(2) R/w Section 151 of CPC to implead them as respondents No.4 to 7 in this case.

2. The application is supported with the affidavit of proposed respondent No.7 wherein he has stated that, the petitioner filed the petition and the petitioner as well as respondents are the legal heirs of his senior grandfather by name Bettegowda S/o Bettegowda. The petitioner filed the suit against respondent No.1 to 3 for the relief of partition and separate possession in OS No.130/2015 which was decreed on 20.01.2020. Bettegowda S/o Late Bettegowda was residing at Atthiguppe

Village, Gavadagere Hobli, Hunsur Taluk who married one Ningamma and out of their wed-lock they had four sons and three daughters by name Gowramma, Akkayamma, Kalyanamma, Rajegowda, Chaluvegowda, Dasegowda and Ramegowda. All are now no more leaving behind their legal heirs. The second son of Bettegowda by name Chaluvegowda died about 40 years ago leaving behind four sons and three daughters. One Puttamma is wife of Chaluvegowda also no more. Husband of applicant No.1 and father of applicants No.2 to 4 by name Chandregowda is the son of Chaluvegowda. The petitioner filed the false suit against the respondents No.1 to 3 and claimed the suit schedule properties. She has not whispered anything about all legal heirs of Bettegowda S/o Bettegowda. It is further alleged that, the petitioner is not stated about the co-sharers of the suit schedule property and she has not made all the parties to the suit. In their absence the suit came to be proceeded. Hence, prayed to allow the application.

3. The said application came to be opposed by the petitioner stating that, the application is not maintainable under law or on facts. It is also contended that, the petitioner filed the suit against the respondents No.1 to 3 in OS No.130/2015 for partition and separate possession and the suit disposed on merits and it is held that, the petitioner is entitled $\frac{1}{2}$ share in the suit schedule properties and as such this final decree proceedings is filed. Earlier the legal heirs of Dasegowda had filed application

before the court for impleading them and at that time this court by considering Panchayati Palu Parikath dated 19.11.2005 got dismissed their application on 12.06.2024 with costs of Rs.500/-. Again this application is filed by one more legal heirs deceased uncle of the petitioner. Already there is partition on 19.11.2005 and the properties are also standing in the name of applicants. It is further contended that, the applicants are not at all necessary parties to the petition. Hence, prayed to dismiss the application with costs.

5. Thereafter, heard arguments addressed by learned counsels for applicants and petitioner 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 applicants are proper and necessary parties to the petition for adjudication of the matter in dispute?
 2. What order?
6. The findings of the above points are as hereunder:

Point No.1: In the negative

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

REASONS

7. **Point No.1:** This is the final decree proceedings filed by the petitioner against the respondents in respect of the preliminary decree passed in OS No.130/2015. The petitioner

herein filed a suit in OS No.130/2015 against the respondents seeking the relief of partition and separate possession. Upon contest the said suit came to be decreed and it is held that, the petitioner herein is entitled for $\frac{1}{2}$ share in the decree schedule properties. On the basis of said decree this final decree proceedings came to be filed. Along with the petition the petitioner counsel produced the copies of judgment passed in OS No.130/2015, the copy of appeal memo in RFA No.1693/2021, copy of Panchayath Palu Parikath dated 19.11.2005, the copy of the RTC and Assessment register extract. After filing of the petition this court appointed ADLR, Hunsur as court Commissioner to demarcate the share of the petitioner. Already the commission report is on record. It is pertinent to note that, earlier the applicants by name Chandrasahsa and others have filed similar application in IA No.III under Order 1 Rule 10(2) of CPC to implead them as respondents No.4 to 7 in this case. The said application on merits came to be rejected with costs of Rs.500/-.

8. It is an admitted fact that neither respondents No.1 to 3 nor the applicants under IA No.III have preferred any appeal and the orders passed by this court on IA No.III attained finality. The present application is filed under Order 1 Rule 10(a) R/w Section 151 of CPC impleading the applicants as respondents No.4 to 7. In the affidavit filed in support of this application it is come out that one Bettgowda S/o Bettgowda is the original propositous of the family who had four sons and three daughters by name

Gowramma, Akkayamma, Kalyanamma, Rajegowda, Chaluvegowda, Dasegowda and Ramegowda. Applicants in IA No.III are none other than children of Dasegowda who is one of the son of Bettegowda. The petitioner herein is plaintiff in OS No.130/2015. She is daughter of Late Rajegowda. The present applicants are also the cousins of petitioner herein they have filed this application on the ground that, the petitioner herein has not made them parties in OS No.130/2015 though the properties are ancestral and joint family properties of herself and the applicants. It is very much necessary to note that, while passing orders on IA No.III this court has relied upon the Panchayath Palu Parikath dated 19.11.2005. It is observed that the said Panchayath palu Parikath has been duly acted upon by the children of Late Bettegowda and already khata have been mutated in their names.

9. It is very pertinent to note that, the RTC produced by the petitioner clearly establishes that, even the properties are standing in the name of applicants herein which is not at all whispered before this court in their affidavit. This application is filed to defeat the rights of petitioner. The petitioner till now not able to eat the fruits of decree. Therefore, this court comes to conclusion that, the applicants are not proper and necessary parties to the petition. Hence, point No.1 is answered in the negative.

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

ORDER

IA No.VI filed by the applicants under Order 1 Rule 10(2) R/w Section 151 of CPC is hereby dismissed with costs of Rs.1,000/-.

(Dictated to the Stenographer, transcribed and computerized by her on the computer, transcript corrected and pronounced by me in the open court on this the 07th day of January 2025.)

(Anitha)

Addl. Senior Civil Judge and JMFC.,
Hunsur.