

KAMS300010332020



**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 21st day of June, 2025.

OS No.106/2020

Plaintiff: Smt.Gowramani, W/o Nagarajappa,
D/o Ningappa, Aged about 60 years,
R/at Hanagodu village and Hobli,
Hunsur Taluk, Mysore District.

-Vs-

Defendants: 1. Basavarajappa, S/o Late Ningappa,
Aged about 68 years,
2. Sri.Puttaswamappa, S/o Late Ningappa,
Aged about 65 years,
3. Shivalingappa, S/o Late Ningappa,
Aged about 58 years,
4. Smt.Sudhamani, W/o N.Basavarajappa,
Aged about 55 years,
5. Anandaram, S/o Rangaram,
Aged about 69 years,
6. Rajesh Chowdari, S/o Anandaram,
Aged about 65 years,
All are residing at at Hanagodu village
and Hobli, Hunsur Taluk, Mysore District.

1. Provision under which the applications are filed	:	Under Order 1 Rule 10(2) R/w Section 151 of CPC, under Order 22 Rule 4 R/w Section 151 of CPC, under Order 22 Rule 9 R/w Section 151 of CPC, under Section 5 of Limitation Act and under Order 32 Rule 4 R/w Section 151 of CPC
2. Relief sought for	:	To implead the proposed defendant as defendant No.7, to bring the legal heirs of defendant No.4 on record, to condone the delay in filing the LR applications and to appoint proposed defendant No.4(a) as minor guardian of proposed defendant No.4(b).
3. The date on which the applications are filed	:	27.09.2023 and 06.04.2024
4. Number of the application	:	IA No.VI to X
5. The date on which the objections are filed by opponents	:	Nil
6. The date on which the orders passed on the said applications	:	21.06.2025

ORDERS PASSED ON I.A.NO.VI TO X

When the case was posted for further chief-examination of PW1, the learned counsel for the plaintiff filed IA No.VI under Order 1 Rule 10(2) R/w Section 151 of CPC to implead the proposed defendant as defendant No.7 in this case. The plaintiff filed IA No.VII under Order 22 Rule 4 R/w Section 151 of CPC to bring on record the proposed Lrs of defendant No.4.

Further, filed IA No.VIII under Order 22 Rule 9 R/w Section 151 of CPC to condone the delay in filing the LR application and further filed IA No.IX under Section 5 of Limitation Act to condone the delay in filing the LR application. The plaintiff also filed IA No.X under Order 32 Rule 4 R/w Section 151 of CPC to appoint proposed defendant No.4(a) as minor guardian of proposed defendant No.4(b).

2. The applications are supported with the affidavits of GPA holder of the plaintiff. In the affidavit filed in support of the IA No.VI it is stated that, the suit is for the relief of partition and separate possession and proposed defendant is the subsequent purchaser of joint family property who is necessary and proper party to the suit. In the affidavit filed in support of IA No.VII to X GPA holder of the plaintiff stated that, during the pendency of the suit defendant No.4 died on 20.03.2023 and the proposed Lrs are the only legal heirs. It is further stated that, she came to know about the death of defendant No.4 recently and there is delay in filing the LR application. It is also alleged that, the delay is due to bonafide reasons and without intention. If the applications are not allowed the plaintiff will be put to great hardship and inconvenience. On the other-hand no hardship is going to be caused to the other-side. Hence, prayed to allow the applications.

3. After filing of the applications this court has issued notice to proposed defendant No.7 as well as proposed Lrs of defendant No.4. The proposed defendant No.7 appeared through his counsel but not chosen to file any objection and same has been taken as nil on 16.12.2023. Even this court issued notice to proposed Lrs of defendant No.4 and they appeared through their counsel but not chosen to file the objection. Hence, the same has been taken as nil.

4. Thereafter, heard arguments addressed by learned counsel for the plaintiffs and perused the case papers.

5. The plaintiff has filed the suit against the defendants seeking the relief of partition and separate possession of her 1/4th share in the suit schedule properties. As per the plaintiff herself and defendants No.1 to 3 are the children of one Ningappa and Parvathamma. The parents of plaintiff are no more and it is the specific case of the plaintiff that, defendants No.1 to 3 colluding with defendants No. 4 and 5 are trying to create the documents. It is very much necessary to note that, after filing of the suit this court issued summons to the defendants. Defendant No.1 and 4 have been placed exparte. Defendant No.2 appeared through his counsel and filed the written-statement. During the pendency of the suit defendant No.4 has been reported dead. Further, as per the plaintiff the proposed defendant No.7 is the subsequent purchaser of the suit schedule properties and he is necessary

party.

6. It is pertinent to note that, the proposed defendant No.7 as well as proposed legal heirs of defendant No.4 have appeared through their counsel but not have chosen to file the objection. They are proper and necessary parties to the suit since their interest is involved in the suit schedule properties. Their presence is very much necessary to adjudicate the matter in dispute. Further proposed defendant No.4(b) is minor and proposed defendant No.4(a) is the mother of proposed defendant No.4(b). It is very much necessary to appoint the proposed defendant No.4(a) as minor guardian of proposed defendant No.4(b). Therefore, this court comes to conclusion that, the plaintiff has made out sufficient grounds to bring the legal heirs on record and to implead the proposed defendant as defendant No.7 in this suit. Hence, this court proceeds to pass the following:

ORDER

I.A.No.VI filed under Order 1 Rule 10(2) R/w Section 151 of CPC, I.A. No.VII filed under Order XXII Rule 4 R/w Section 151 of CPC, I.A. No.VIII filed under Order XXII Rule 9 R/w Section 151 of CPC, I.A. No.IX filed under Section 5 of Limitation Act and I.A. No.X filed under Order XXXII Rule 4 R/w Section 151 of CPC filed by the plaintiff are hereby allowed.

Accordingly, the plaintiff is permitted to implead proposed defendant as defendant No.7.

Further, the delay in filing the LR application is hereby condoned. The abatement of the suit against the 4th defendant is hereby set aside. The plaintiff is permitted to bring on record legal heirs of defendant No.4 in the place of deceased defendant No.4. Further, defendant No.4(a) is hereby appointed as minor guardian of defendant No.4(b).

(Dictated to the Stenographer, transcribed and computerized by her on the computer, the transcript corrected and pronounced by me in the open court on this the 21st day of June, 2025.)

(Anitha)

Prl.Senior Civil Judge and JMFC.,
Hunsur.