

KAMS310000282022



**IN THE COURT OF I ADDL. CIVIL JUDGE & JMFC,
HUNSUR**

:PRESENT:

**SMT. NAMRATA S HOSMATH, B.A., LL.B.,
I ADDL. CIVIL JUDGE & JMFC,
HUNSUR.**

DATED THIS THE 18TH DAY OF JUNE, 2026

O.S.No.07/2022

<u>PLAINTIFFS:</u>		Sannamma & another
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// Vs //

<u>DEFENDANT:</u>		Chaithra & another
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PARTIES TO I.A. NO.III

APPLICANTS	:	Sannamma plaintiff No.1
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V/s

OPPONENT	:	Chaithra & another defendants
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i	Provision under which the application is filed	U/o I Rule 10(2) R/w Sec. 151 of CPC
ii	Relief Sought for	To implead the proposed defendant No.3
iii	The date on which the application is filed	05.09.2023

iv	Number of the application	III
v	The date on which the objection is filed by opponent	02.08.2024
vi	The date on which the order was passed on the said application	18.06.2026

ORDERS ON I.A. NO.III

The plaintiff has filed this application under Order I Rule 10 read with Section 151 of the Code of Civil Procedure, seeking leave of this Court to implead the proposed defendant No.3 as party to the present suit.

Proposed defendants:

Manukumar M.M. S/o Mallikarjun,
Aged about 38 years,
R/at Mallinathapura Grama,
Kasaba Hobli,
Piriyapatna Taluk,
Mysuru District.

2. In the affidavit annexed to the application, it is averred that, plaintiffs have filed this present suit against the defendants seeking for the relief of partition and separate possession. It is further averred that, during the pendency of the suit, the defendants have alienated itemNo.4 of the suit schedule property in faovur of the proposed defendant No.4 on 05.04.2023. Hence, proposed defendant No.3 is necessary party to the suit and he has to be impleaded to effective and adjudication of the suit. The plaintiff contended that no prejudice would be caused to the proposed defendant No.3, if

the application is allowed, and that his presence is essential for the complete and effective adjudication of the matter in dispute. Hence, prays that the application be allowed.

3. The proposed defendant No.3 has filed detailed objections to the application, denying all the averments made in the application. It is contended that, the present application is neither maintainable in law nor on facts. It is further contended that, the plaintiff has suppressed the real facts of the case and is allegedly filed the present suit. It is further contended that, proposed defendant No.3 is a stranger to the family of plaintiff, hence he is not necessary party to the present suit. Accordingly, prays to dismiss the application.

4. Heard and perused the materials available on record.

5. The points that arise for consideration of this Court are:-

1) Whether the proposed defendant No.3 is necessary party to the present lis for effective adjudication of the matter in dispute?

2) What order?

6. My findings on the above points are as under:-

Point No.1 : In the Negative

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

7. **Point No.1:-** Admittedly, the present suit is filed by the plaintiff seeking for partition and separate possession. At the stage when the matter was posted for steps, the plaintiffs have come forward with the present application seeking impleadment of proposed defendant No.3.

8. Since the present application is filed under Order I Rule 10(2) of the Code of Civil Procedure, it is relevant to advert to the scope and object of the said provision. The provision empowers the Court to direct that a person be made a party to the suit if such person ought to have been joined, or whose presence before the Court is necessary for effectual and complete adjudication of the questions involved in the suit. The expression "questions involved in the suit" must relate to those issues which are necessary for the Court to decide, as between the parties already on record, and not issues that may arise incidentally concerning a third party. In this context, a distinction must be drawn between a necessary party and a proper party. A necessary party is one without whom no effective decree can be passed. A proper party is one whose presence enables the Court to completely and effectively adjudicate upon the matters in controversy.

9. In the instant case, the plaintiff states that, the proposed defendant No.3 is necessary party to suit. The plaintiffs have not produced any documents before this court to support their contentions. It is to be noted that, even after giving sufficient opportunities for furnishing documents in support of their contentions. The plaintiffs have not come forward to furnish documents nor have they addressed their side of hearing. Hence, this court is of the opinion that there is no bonafide reasons in the instant application as rightly contented by proposed defendant No.3. Accordingly, **Point No.1 is answered in the Negative.**

10. **Point No.2:** In view of my above discussion and conclusion arrived at points No.1. Accordingly, I proceed to pass the following;

ORDER

The I.A.No.III filed by the plaintiffs
under Order 1 Rule 10(2) R/w Sec.151
of CPC is hereby rejected.

(Dictated to the Stenographer, transcribed by her on computer, revised, corrected and then pronounced by me in the open Court on this the **18th day of June 2026**)

(NAMRATA S HOSMATH)
I Addl. Civil Judge & JMFC.,
Hunsur