

OS.No.257/2018

ORDER ON IA NO.VII

The applicants / proposed defendants-7 to 9 have filed this application under Order 1 Rule 10(2) R/w Sec.151 of C.P.C. seeking the leave of this court to implead the annexed parties as proposed defendants – 7 to 9 in this case.

Proposed defendants:

7) Shivannegowda,
Aged about 65 years,

8) Dushigowda,
Aged about 60 years,

Both are sons of
late Kurigolegowda @ Kuribola

9) Shivaraju,
S/o Dushigowda,
Aged about 32 years,

All are R/at Chikkabeechanahalli Village,
Bilikere Hobli, Hunsur Taluk.

2. In the affidavit annexed to the application, it is averred that the present suit is filed for the relief of partition and separate possession. It is further averred that item-11 of the suit schedule property is in the name of Kurigolegowda @ Kuribola and the proposed defendants-7 to 9 are successors of the said Kurigolegowda @ Kuribola. It is submitted that item-11 of the suit schedule property is the ancestral property of applicants and hence the plaintiffs do not have any right or interest over the said property. When such being the case, the plaintiffs and defendants have colluded with each other and with an intention to grab the property have filed the present suit. It is submitted that if the application is allowed no injustice would be caused to the other side. Hence, prays to allow the application.

3. Learned counsel for plaintiffs have filed a detailed objection to the said application. The entire averments made in the application are denied. It is contended that item-11 of the suit schedule property is self acquired property of late Appaji Gowda. Further, it is contended that the present application is not maintainable and prays to reject the said application.

4. Heard and perused the materials available on record.

5. The point that arise for my consideration is that **“Whether the applicants have made out grounds that proposed defendants – 7 to 9 are necessary to adjudicate the matter completely”?**

6. My answer to the above point is in the **Affirmative** for the following;

REASONS

7. This suit is filed for partition and separate possession. In the plaint averments it is stated that suit schedule properties are ancestral properties. Third party applicants have filed the present application contending that they have got right and interest in the suit land which is the Sy.No.118/2. It is contended that the said land is ancestral land belonging to them and RTC is also running in the name of Kurigolegowda @ Kuribola. The applicants being the successors of Kurigolegowda @ Kuribola are in possession and enjoyment of the suit schedule property.

8. The plaintiff counsel who is representing the dominus litis has made a submission to allow the application. Under such circumstance, for proper adjudication and to reach finality, it is necessary to implead the annexed parties as proposed defendants in this suit. Further, it is to be taken care of at the time of delivering judgment whether the parties of the suit have got share in the suit schedule properties. Hence, at this stage, if this court dismissed the present application the suit will not reach to its finality rather it definitely leads to multiplicity of proceedings. Hence, to meet the interest of justice and equity and also no hardship will be caused to the other side. For all these reasons, the application deserves to be allowed. Accordingly, I answer the above point in the **Affirmative** and proceed to pass the following;

ORDER

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

The annexed parties in IA.No.7 are impleaded as defendants-7 to 9.

For amendment and to file amended plaint by 23.06.2025.

04.06.2025

**Addl. Civil Judge & JMFC.,
Hunsur.**