

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

**Dated this the 7<sup>th</sup> day of July, 2025**

**:Present:**

**Smt. Namrata S Hosmath, B.A., LL.B.,  
Addl. Civil Judge & JMFC,  
Hunsur.**

**FDP.No.15/2022**

<b><u>PETITIONER:</u></b>	Chayadevi
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**// Vs //**

<b><u>RESPONDENT:</u></b>	Ahalyabai
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**PARTIES TO I.A. NO.II**

<b>APPLICANT</b>	: B. Ravikumar S/o Bhopalrao, Aged about 28 years, R/at Kollapuradammana Temple Road, Hunsur Town. Present Address: Near CTRI, Chikkahunsur Village, Hunsur Town.
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**V/s**

<b>OPPONENT</b>	: Chayadevi and another
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**ORDERS ON I.A. NO.II**

The impleading applicant, Sri B. Ravikumar, has filed I.A. No. II under Order I Rule 10(2) of the Code of Civil Procedure, seeking to implead himself as respondent No.2 in the present case.

2. In the affidavit filed in support of the application, it is averred that the petitioner is his maternal aunt and the respondent is his mother. It is further stated that the petitioner had earlier instituted a suit in O.S. No. 266/2016 against the respondent, the applicant, and the applicant's father, seeking partition and separate possession in respect of the suit schedule property. The applicant claims that in the said suit, he had asserted a right over the suit schedule property on the ground that the property was given to him by his grandfather. However, it is contended that this Court did not consider his claim and proceeded to decree the suit by allotting shares only to the petitioner and the respondent. Aggrieved by the said judgment and decree, the applicant has preferred an appeal in R.F.A. No. 5/2024 before the Hon'ble Principal Senior Civil Judge and JMFC, Hunsur, which is currently pending consideration. It is further alleged that the present proceedings have been initiated by the petitioner and respondent with the intention to usurp the suit schedule property, and therefore, the applicant contends that he is a

necessary and proper party to the present case. Accordingly, he has prayed that the application be allowed.

3. The petitioner and respondent have filed their statement of objections to the impleading application. The averments made in the application are categorically denied. It is contended that the proposed respondent is neither a necessary nor a proper party to the present suit. It is further alleged that the application has been filed with the sole intention of harassing the petitioner and respondent, and to protract the proceedings. It is specifically contended that the proposed respondent was already a party to the earlier suit in O.S. No. 299/2016, and that the decree passed therein was in favour of the petitioner and respondent alone. The objections further assert that the applicant's claim was already adjudicated in the said suit, and no right or share was recognized in his favour. Accordingly, it is submitted that the present application is not maintainable in law and is liable to be rejected as misconceived and devoid of merit. On these grounds, the petitioner and respondent have prayed for dismissal of the application.

4. Heard and perused the materials available on record.

5. Now the points that arise for consideration are as follows:-

- 1) Whether the proposed defendants are necessary or proper party to the suit?
- 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:-** It is an admitted fact that the applicant was a party to the earlier suit in O.S. No. 299/2016 and that the decree passed therein did not recognize any right, title or share in his favour. Although the said decree is under challenge in RFA No. 5/2024, it continues to operate as binding and conclusive between the parties as on date, since no stay has been granted by the appellate court. As such, the decree stands operative and binding as on date.

8. The issue regarding the applicant's right, title, or share in the suit property has been conclusively adjudicated in the earlier suit and is currently subject to the appellate review. Unless and until the said decree is stayed or set aside, this Court is bound to proceed on the basis of its finality.

9. It is well settled that the preliminary decree conclusively determines the rights of the parties, and final decree proceedings are only intended to work out those rights. Permitting the impleadment of the applicant at this stage would amount to indirectly reopening or re-litigating the matters already decided, which is impermissible in law and the attempt amounts to an abuse of the process of law.

10. Furthermore, the presence of the applicant is not necessary for adjudicating of the current proceedings. The rights, if any, claimed by the applicant are already under consideration in the pending appeal, and this Court cannot entertain the same claims indirectly through an impleading application. In light of the above discussion, this Court is of the view that the applicant has failed to establish that he is a necessary or proper party to the present proceedings. The application appears to be an attempt to reopen matters which are already adjudicated, and therefore, deserves to be rejected. Accordingly, Point No.1 is answered in the Negative.

11. **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 application filed by the applicant under Order 1 Rule 10(2) of CPC., is hereby rejected.

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