

KAMS400002702020



**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC
AT K.R.NAGAR**

PRESENT: Sri. Aravindra B.C., B.A., L.L.B.,
Senior Civil Judge & JMFC,
K.R. Nagar.

Dated this the 11th day of December, 2025

O.S No.15/2020

Plaintiff : Smt. Akkayamma

-V/s-

Defendants : Sri. Honnegowda and others

Parties to I.A. No.VII

Applicant : Smt. Jayamma,
W/o Javaregowda,
Aged about 53 years,
R/at: Bherya village,
Hosa Agrahara Hobli,
K.R.Nagar Taluk,
Mysuru District.

**..... Defendant No.9
(By Sri. A.T., Adv.)**

-V/s-

Opponent : Smt. Akkayamma,
W/o Late Siddegowda,
Aged about 70 years,
R/at: Kalenahalli,
Hosakoppalu village,



Kasaba Hobli,
K.R.Nagar Taluk,
Mysuru District.

..... Plaintiff
(By Sri. K.S.D. Adv.)

Provision under which the application is filed	Under Order 1 Rule 10(6) R/w Section 151 of CPC
Relief Sought For	Seeking transposition of defendant No.9 as a plaintiff No.2
The date on which the application is filed	18.03.2025
Number of the application	IA No.VII
The date on which the objection is filed by the different opponents	18.06.2025
The date on which the orders was passed on the said application	11.12.2025

ORDER ON IA.No.VII

The defendant No.9 has filed this application under Order 1 Rule 10(6) R/w Section 151 of CPC., seeking transposition of defendant No.9 as a plaintiff No.2 in this case.



2. In the affidavit which is enclosed to I.A. No.VII it is stated that, the plaintiff has filed the suit against the defendants for the relief of partition and separate possession with respect to the suit schedule properties. Further, the plaintiff was suffered from old age ailments and she has not appeared before this court due to her ill-health and the children of the plaintiff also colluded with the defendant No.1 to 8. The defendant No.9 having a share over the suit schedule properties. Accordingly, she prays for allow the application.

3. On the other hand, plaintiff has not filed objection to this application. However, the defendant No.1 to 8 have filed objection and contending that the application filed by the defendant No.9 is not maintainable. Hence, they have prays for reject the application.



4. Heard the learned counsel appearing for the parties and perused the material on record.

5. Now the following points arise for consideration of this Court:

1. Whether application filed by the defendant No.9 is deserves to be allowed ?

2. To what order ?

6. The findings of this Court on the above said points are as under:

Point No.1 : In the Affirmative

**Point No.2 : As per final order
For the following;**

REASONS

7. **Point No.1**:- The plaintiff has filed this suit seeking partition and separate possession of $\frac{1}{2}$ share in the suit schedule properties. On the other hand, the defendants have filed written statement by denying the



case of the plaintiff and contended that one Thammegowda had executed registered Will in favour of Honnegowda on 19.10.1987. On the basis of rival claimants of the parties, this court has framed the issues and fixed for trial.

8. At this stage, the learned counsel for the defendant No.9 has filed this application seeking transposition of defendant No.9 as plaintiff No.2 in this case on the ground that, the plaintiff has not appeared before this court due to her ill-health and the children of the plaintiff also colluded with the defendant No.1 to 8. Hence, she is intended to transpose the plaintiff No.2.

9. It is well settled that in transposition, a person who is already on record plaintiff or a defendant may seek his transposition from one capacity to another capacity; i.e., from plaintiff to defendant or vice versa. The Hon'ble



Supreme Court in the decision reported in **AIR 1958 SC 394** in the case of **Saila Bala Dassi V/s. Nirmala Sundari Dassi** observed that the court can, if necessary, take action *suo motu* either Order 1 Rule 10 or in its inherent jurisdiction and transpose appellant as respondent.

10. The Hon'ble High Court of Karnataka in the decision reported in **2020 KCCR 2718** between **Deepak Vs. Sri.Aravind and others** held that, when there is no conflict of interest Order I Rule 10(6) of CPC provides for transposition of plaintiff as defendant and defendant as plaintiff after notice to the other parties on such terms and conditions as it may impose.

11. On perusal of entire records it appears that, the defendant No.9 is not having any contrary interest in the suit. On the other hand, she has also having similar



interest as that of plaintiff with regard to allotment of share. Therefore, the defendant No.9 transposition can be made to do complete justice between the parties and with a view to avoid multiplicity of proceedings. A court may not add, delete, substitute or transpose a party, if it changes the nature or character of the suit, or alter cause of action, or results in *denovo* trial, or seek to repeat a valuable right acquired by any person by passage of time or otherwise.

12. Based on the above decision, it is held that the defendant No.9 with common interest to that of plaintiff can be transposed as plaintiff No.2 for the best interest of plaintiff and defendants. Accordingly, the application filed by the defendant No.9 deserves to be allowed..
Accordingly, the this court answered Point No.1 is in the Affirmative.



13. **Point No.2**:- For the above discussion on point No.1, this court proceed to pass the following:

ORDER

The I.A.No.VII filed by the defendant No.9 under order 1 Rule 10(6) R/w Section 151 of CPC., seeking transposition of defendant No.9 as plaintiff No.2 in this case is allowed.

The defendant No.9 is permitted to transpose herself as plaintiff No.2.

For amended plaint and to carry out amendment and also to furnish the amended plaint.

[Dictated to the Stenographer directly on computer, typed by her corrected and then pronounced by me in the Open Court on the 11th day of December, 2025]

**(ARAVINDRA B.C.)
SENIOR CIVIL JUDGE & JMFC,
K.R.NAGAR.**