

KAMS400008222021



**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 06th day of November, 2025

O.S. No.65/2021

Plaintiffs : Sri. Kashigowda and others

-V/s-

Defendant : Sri. Siddegowda

Parties to I.A.No.XI

Applicant : Sri. Lavakusha H.S.,
S/o Late Siddegowda H.K.,
Aged about 62 years,
R/at: Hosa Agrahara village
Hosa Agrahara Hobli,
K.R.Nagar Taluk,
Mysuru District.

**Proposed defendant
(By Sri. B.M.K., Adv.)**

-V/s-



- Opponents** :
1. Sri. Kashigowda,
S/o Channegowda,
Aged about 70 years.
 2. Smt. Vinodamma,
W/o Kashigowda,
Aged about 50 years.
 3. Smt. Sakamma,
W/o Kashigowda,
Aged about 55 years.
 4. Sri. Madhusudan,
S/o Kashigowda,
Aged about 45 years.

All are R/at:
Hosa Agrahara village,
Hosa Agrahara Hobli,
K.R.Nagar Taluk,
Mysuru District.

..... Plaintiffs

(By Sri. T.G., Adv.)

Provision under which the application is filed	Under Order 1 Rule 10(2) R/w Section 151 of CPC.
Relief Sought For	For implead of proposed defendant
The date on which the application is filed	10.10.2025
Number of the application	IA No.XI



The date on which the objection is filed by the different opponents	14.10.2025
The date on which the orders was passed on the said application	06.11.2025

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

ORDER ON IA.No.XI

This is an IA Under Order 1 Rule 10(2) R/w Section 151 Code of Civil Procedure filed by the applicant/proposed defendant No.2 prays for implead him as a defendant No.2 in the suit.

2. In the supporting of affidavit, he stated that the plaintiffs have filed suit against defendant for the relief of declaration and permanent injunction with respect to the suit schedule property. Further, stated that he is in possession and enjoyment of the same. The said property



has been granted in favour of his father. Therefore, he is necessary party to the suit. Accordingly, he prays for allow the application.

3. On the other hand, the plaintiffs and defendant have filed objection contending that, the application filed by the proposed defendant is not maintainable both in law and facts. Further contended that, the father of applicant by name, H.K.Siddegowda was filed a suit against the plaintiffs for the relief of declaration and injunction in OS No.290/1990. On contest, the said suit was dismissed on 01.12.1993. Further, his father was preferred an appeal before Senior Civil Judge at Hunsur in RA No.11/1994. On contest, the said appeal was also dismissed on 24.04.2006. In the above proceedings, the father of applicant taken contention that the schedule property was



granted to him but, his father failed to succeed his case.
Hence, prays for dismiss the application.

4. Heard arguments on both side.

5. On the basis of the above pleadings, the following points arise for consideration of this court:

1. Whether the applicant/proposed defendant has made out a ground to implead him as defendant No.2 is necessary party to the suit ?

2. What order?

6. My findings on the above points are as follows:

Point No.1 : In the Negative
Point No.2 : As per final order for the following :

REASONS

7. **Point No.1:-** Perused the available records, it could be seen that the plaintiffs have filed the suit against



the defendant for the relief of declaration and permanent injunction on the strength of registered sale deed. On the other hand, the defendant has denied the case of the plaintiffs. On the basis of rival claimants of the parties, this court has framed the necessary issues and fixed for trial. The record shows that the trial was completed and posted for arguments on merits. At this stage, the present application was filed by the applicant stating that he is also necessary party to the suit.

8. In support of his application, the applicant has stated that he is in possession of the schedule property and the said property has been granted in favour of his father. In the objection statement, the defendant contended that the father of applicant filed suit in OS No.290/1990 against the present plaintiffs alleging that the schedule property has been granted in his favour. In support of objection



statement, the plaintiffs were produced the certified copies of the judgment and decree in OS No.290/1190 and RA No.11/1994 which is marked at Ex.P10 to P12. On perusal of the Ex.P10, which indicates that the father of applicant by name, Siddegowda was filed suit against the present plaintiffs for the relief of declaration and permanent injunction. Further, indicates that the father of applicant has alleged that the schedule property has been granted by the government in his favour. On contest, the said suit was dismissed.

9. Further the record shows that his father was also preferred an appeal aggrieved by the judgment and decree passed in OS No.290/1190 in RA No.11/1994. The said appeal was also dismissed. The competent court has already adjudicated the matter stating that the father of applicant has not able to prove the title and possession over



the schedule property in the above proceedings. When, the father of applicant was not in possession and enjoyment of the schedule property, the question of possession of the applicant over the schedule property does not arise.

10. Further, the father of applicant has not preferred any regular second appeal before Hon'ble High Court of Karnataka. Further, the applicant has not produced any document to show that he is in possession and enjoyment of the schedule property along with application. Therefore, this court is of the opinion that the applicant/proposed defendant is not necessary party to the proceedings. In his absence, this court can adjudicate the matter effectively. The applicant is not necessary party or proper party to the proceedings. Hence, this court is of the opinion that the application filed by the applicant is not maintainable.



Accordingly, this court answered point No.1 is in the Negative.

11. **Point No.2:-** For the above said reasons, this court proceed to pass the following:-

ORDER

The IA No.XI filed by the applicant/
proposed defendant under order 1 Rule
10(2) R/w Section 151 of CPC is hereby
rejected.

*[Dictated to the Stenographer directly on computer, corrected and then pronounced by me in the Open Court on this the **06th day of November, 2025]***

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