

KAMS400009562022



**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 16th day of December, 2025

O.S No.40/2022

Plaintiffs : Sri. M.R.Harisha and others

-V/s-

Defendants : Sri. K.Venkatesha and others

Parties to I.A. No.VIII

Applicant : Sri. Sudheer,
S/o B.Raju,
Aged about 42 years,
R/at: Hosabudunooru village,
Kasaba Hobli,
Mandya Taluk & District.

**..... GPA Holder of plaintiff No.4
(By Sri. L.V.R., Adv.)**

-V/s-

Opponents : 1. Sri. K.Venkatesha,
S/o Late Kempegowda,
Aged about 75 years.
2. Sri. A.V.Madhukumar,
S/o K.Venkatesha,
Aged about 46 years.



3. Sri. A.V.Deepak,
S/o K.Venkatesha,
Aged about 44 years.
4. Sri. K.Ashoka,
S/o Late Kempegowda,
Aged about 72 years.
5. Smt. H.K.Geetha,
W/o Dinesha,
Aged about 50 years.
6. Sri. K.Suresha,
S/o Kalegowda,
Aged about 55 years.
7. Sri. A.Nagaraja,
S/o Late A.Annegowda,
Aged about 58 years.
8. Smt. Bhagya,
W/o Nataraj,
Aged about 48 years,
R/at: Mirle village and Hobli,
K.R.Nagar Taluk,
Mysuru District.
9. Smt. Varalakshmi,
W/o A.J.Manjunath,
Aged about 42 years.
10. Sri. A.P.Thimmegowda,
S/o Late Puttaswamygowda,
Aged about 70 years.
11. Sri. A.J.Manjunath,
S/o Gowdaiah,
Aged about 55 years.
12. Smt. Rajamma,
W/o A.P.Thimmegowda,
Aged about 60 years.



Defendant No.1 to 7 & 9 to 12
 Are R/at: Ankanahalli village,
 Saligrama Hobli,
 K.R.Nagar Taluk.

..... Defendants

(D1, 2, 4 by Sri. A.G.S., Adv.)
 (D6, 7, 10 by Sri. S.S.R. Adv.)
 (D5 by Sri. P.D., Adv.)
 (D3, 8, 9, 12 Exparte)
 (D11 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	Seeking transposition of plaintiff No.3 as a defendant No.13
The date on which the application is filed	04.07.2024
Number of the application	IA No.VIII
The date on which the objection is filed by the different opponents	-
The date on which the orders was passed on the said application	16.12.2025

ORDER ON IA.No.VIII

The GPA holder of the plaintiff No.4 has filed this application under Order 1 Rule 10(2) R/w Section 151 of



CPC., seeking transposition of plaintiff No.3 as a defendant No.13 in this case.

2. In the affidavit which is enclosed to I.A. No.VIII it is stated that, the plaintiffs have filed the suit against the defendants for the relief of partition and separate possession with respect to the suit schedule properties. Further, the plaintiff No.3 is not cooperative with the other plaintiffs to proceed the case. Hence, he intended to transpose the plaintiff No.3 as a defendant No.13. If the application is allowed, no harm will be caused to the other side. Accordingly, he prays for allow the application.

3. Further, the record shows that after filing of the application, this court issued notice to plaintiff No.3 on IA No.VIII. In spite of service of notice, the plaintiff No.3 has not appeared before this court to oppose 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 GPA holder of the plaintiff No.4 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 plaintiffs have filed this suit against the defendants for the relief of partition and separate possession of their legitimate share in the suit schedule properties. On the other hand, the defendants have filed written statement by denying the case of the plaintiff. On the basis of rival claimants of the parties, this



court has framed necessary issues and case posted for trial. When the case was posted for cross-examination of PW-1, the present application was filed. The contention of the plaintiff No.4 is that the plaintiff No.3 has refused to sign the amendment plaint and he is not cooperative with the other plaintiff to proceed the case. This court has also issued notice to plaintiff No.3. But, inspite of service of notice, he did not appeared before this court.

8. 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.

9. 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.

10. On perusal of entire records it appears that, the plaintiff No.3 has not cooperative with the other plaintiffs. Therefore, the plaintiff No.3 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.

11. Based on the above decision, it is held that the plaintiff No.3 with common interest to that of plaintiffs can be transposed as defendant No.13 for the best interest of plaintiffs and defendants. Accordingly, the application filed by the GPA holder of the plaintiff No.4 is deserves to be allowed. **Accordingly, this court answered Point No.1 is in the Affirmative.**

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

ORDER

The I.A.No.VIII filed by the GPA Holder of the plaintiff No.4 under order 1 Rule 10(2) R/w Section 151 of CPC., seeking transposition of plaintiff No.3 as defendant No.13 in this case is allowed.



The plaintiff No.3 is permitted to transpose himself as defendant No.13

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

*[Dictated to the Stenographer directly on computer, typed by her corrected and then pronounced by me in the Open Court on the **16th day of December, 2025**]*

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