

ORDER ON I.A. NO.III FILED U/O 1 R-10(2) OF C.P.C.

The present application has been preferred by the applicants/plaintiffs herein to implead the opponent/proposed defendant No.4 to the suit by allowing the application.

2. The applicants/plaintiffs herein have been appealing, craving and soliciting the permission of this court to implead the proposed defendant into the suit by way of insertions in the cause title and to proceed further in the matter. As per the recitals that has been detailed, described, postulated and submitted by the applicants/plaintiffs in the form of an affidavit, it reflects and also would suggests that, the defendant No.1 is the father-in-law of the plaintiff and the defendant No.2 and 3 are the brothers and sisters of one deceased husband of the plaintiffs.

3. According to the statement and averments which are asserted in the affidavit, after the death of the husband, the plaintiffs were deserted, separated and rusticated from the family of the defendants. Thereby the plaintiffs are on the street and for their livelihood and to eke there lives, they are doing some odd, trivial, poultry and some weedy works.

4. Further according to the applicants/plaintiffs herein, the plaintiffs along with the defendants constituted and designated Hindu undivided joint and collective, integral

family. Where no division or partition has been carried out and held within the family. However, when the plaintiffs appeared and approached the defendants claiming and demanded the defendants for effecting partition and to allot the share of the plaintiffs, the defendants straightaway and the precision they have denied, refused and declined the share of the plaintiffs.

5. Further with intention to choose, bamboozle, delude and to deceive the share and the rights of the plaintiffs herein, in collusion, corroboration, intriguing and in wrong connection with the defendant No.4, the defendant No.1 to 3 in wrong alliance with the defendant No.4, the defendant No.1 to 3 executed the sale deed pertaining to item No.2 of the schedule property. The said aspect has been recently came to the knowledge and notice of the plaintiffs herein. Therefore, the said sale deed which is acted initiated, processed and taken place among the defendant No.1 to 3 and 4 will not effect, damage or having any implication over the share of the plaintiffs. Therefore, the said purchaser, the proposed defendant No.4 is to be impleaded and he should be brought on record in the form of insertion and addition to the cause title, since he is necessary party in order to resolving the dispute and ambiguities between the parties completely.

6. However, on the contrary, after the notice is being issued, the said opponent proposed person as made his

appearance before this court through his counsel, wherein the said opponent, the proposed person has challenged impugned and while refusing the entire perpetration and incrimination stated and impetrate in the application, they have preferred and also retained some statement in the form of objections, the proposed person, the party has been specifically held, stated, stipulated and canvassed before this court that, the defendant No.1 has disposed and conveyed his own independent self acquired property through the deed of sale dated 19.06.2024. Further the plaintiff has wrongly with malafied and ill-intention in order to trouble and to harass the 4th defendant, the application has been presented and submitted before this court. According to the proposed defendant, he is not at all necessary nor proper person in order to decide, adjudicate and give findings in the present case on hand. Therefore, the opponent the proposed defendant No.4 has sought for dismissal of the application and denial of the relief claimed therein.

7. Heard the counsels representing the applicants/plaintiffs herein and also the proposed defendant canvassed their arguments upon the application and also they have vehemently and strenuously canvassed their submission supporting their pleadings of the application and objections.

8. The following points arise for this court's consideration.

1) Whether applicants have made out sufficient grounds for allowing the present application?

2) What Order?

9. This court findings on the above points for consideration are as under:

Point No.1: In the Affirmative

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

REASONS

10. POINT NO.1:

Upon appreciating and also keenly observing the pleadings of the application and also the objections, it is according to the applicant, it is prompted and also necessitated the applicant/plaintiff herein to include and implead the proposed defendant No.4. Wherein the affidavit which has been surrendered, tendered and accompanied with the application would evolve, deal and it would describes and detailed that, the defendant No.1 is the father-in-law of the plaintiff No.1 wherein the other defendants are the sisters and brother of the deceased husband of the plaintiff No.1.

11. Further it has been stimulated and stated in the said affidavit that, despite the plaintiffs are being the members of the Hindu Joint, conjoint and integral part and members of the entire family, they were separated, driven out of the

family of the defendants and they were rusticated and thrown away soon after the death of her husband. Further, the defendants in order to gloom, bilk, denounce and grab the property and share of the plaintiffs herein over the schedule property, behind and without the consent, notice and knowledge of the plaintiffs herein, item No.2 of the schedule property herein has been conveyed, sold and alienated towards the proposed defendant No.4 with a sole object and motive of hoodwink, delude, cheat and deceive the share of the plaintiffs.

12. Therefore, according to the applicants, the involvement of the proposed party in the present case on hand is very much necessitated, essential and absolutely required in order to decide the real conflicts, disputes and ambiguities. Thereby in order to settle all the differences and controversies between the parties, the proposed person is hereby absolutely and desperately very much necessary in order to adjudicate, pellucid, garnet, decide and adjudge all the differences among the parties. Wherein according to the objections, the defendant No.1 being the independent, separate and conferred with the absolute rights and having title over the said property and he is empowered, designated and conferred with ample rights so to decide with the property item No.2 which is independent and separate self acquired property of the defendant No.1. According to the said opponent, in order to decide the suit and to give

findings his involvement and participation before this court is least required and effective order may be passed in his absence.

13. However, the said prospect and also the said issues which may be answered and decided only considering the evidence of the party that may be adduced and presented before this court while leading evidence. Otherwise only on the basis of the pleadings and also the averments canvassed and pleaded it is not justified so to decide and conclude the right of the parties. Since there is a clear cloud, haziness or dispute regarding the said alienation, in order to curb, mitigate and also avoid the multiplicity of the proceedings and to protect the property rights and also so as to secure and to prevent the multiplicity and further litigation, it is justified in considering the application.

14. Further, in the opinion of this court no derogatory remarks or prejudice will be caused to the other side if the proposed party is permitted to implead by according sanction to the applicant to include and implead the said opponent in cause title. Hence, providing an opportunity to parties so as to place their defence and submission before this court in order to ascertain the real conflicts and to settle all the dispute between the parties more effectively, exhaustively and integrally, the application is hereby liable to be allowed. Hence this court inclined to answer the **point No.1 in the Affirmative.**

15. POINT NO.2:

In view of the above discussions and the reasons mentioned therein this court proceeds to pass the following:-

ORDER

The application No.III filed by applicant U/o 1 rule 10[2] of C.P.C. is hereby allowed.

Further, the applicant is permitted to include and implead the opponent and also directed to amend the pleadings of the cause title of the plaint to that effect and directed to furnish the amended copy of plaint afresh.

Call on for necessary amendments and alterations.

R/by: 23.06.2025.

**(Chandan S)
Prl. Civil Judge & JMFC.,
K.R.Nagar.**