

ORDERS ON IA No.II

This application is filed by the applicant/ proposed defendant No.13 under order 1 Rule 10(2) of C.P.C. to implead her as defendant No.13 in this suit.

2. In support of this application, the defendant No.13 has sworn the affidavit wherein she has stated that, during the lifetime of her husband he was purchased the suit item No.8 from one Late Chowdanayaka and his children. Thereafter, the katha has been changed into the name of her husband. After the death of her husband the said property has been transferred into her name and her children. Thereafter they are in possession and enjoyment of the said property and they have paid tax to the concerned authority and also the property in suit item No.19 is belongs to Late Mugamma. The plaintiffs have no right over the said property. The plaintiffs have falsely included the said property without having right. The applicant was filed suit in OS No.291/2024 on the file of learned Prl. Civil Judge, K.R.Nagar. The said notice was pending. Therefore, the applicant having absolute right over the item No.19 of the schedule property. Hence, she is necessary party to the suit. Therefore, she prays for allow the application.

3. On the other hand, the plaintiffs have not filed objection to the application even,

giving sufficient opportunity. Hence, objection to IA No.II taken as nil.

4. Heard arguments.

5. The following points are arise for consideration of this court:

1. Whether the applicant has made out a ground to implead her as defendant No.13 in the suit and without impleading her, the matter cannot be disposed off effectively ?

2. To what order ?

6. This court answer to the above points are as follows:

Point No.1: In the Affirmative

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

REASONS

7. **Point No.1:** Perused the available records, the plaintiff has filed this suit against the defendants for the relief of partition and separate possession with respect to the schedule properties. On the other hand, the defendants No.1 to 7 have not filed the written statement and defendant No.8 to 12 were placed exparte. When case posted for plaintiff's evidence, the applicant come with this application. In the affidavit it is stated that, she having a right over the item No.8 and 19 of the schedule property. Whether the applicant having right over the

said property cannot be decided at this stage. It requires full pledged trial. Moreover, the plaintiff has not filed objection to the application. The applicant is necessary party to the suit, without impleading her, the matter cannot be adjudicated effectively. Accordingly, the application filed by the proposed defendant needs to be allowed. **Therefore, this court is answered Point No.1 in the Affirmative.**

8. **Point No.2:-** For the aforesaid reason and discussion, this court proceed to pass the following;

ORDER

I.A.No.II filed by the applicant is hereby allowed.

The Plaintiff's Counsel is directed to carry out the amendment within 14 days and furnish the amended plaint.

Call on: 11.09.2024.

**Senior Civil Judge & JMFC,
K.R.Nagar.**