

KAMS410016772022



IN THE COURT OF PRINCIPAL CIVIL JUDGE & JMFC.,
KRISHNARAJANAGAR

PRESENT

Sri. Chandan S, B.Com., LL.B

Prl. Civil Judge & JMFC, Krishnarajanagara.

DATED 01ST DAY OF AUGUST 2026

O.S./195/2022

Plaintiffs : Rathnamma and others

-V/s-

Defendants : Venkatesha and others

I.A. No.6

Applicant : Harisha

--- 4th Defendant

-V/s-

Opponent : Rathnamma and others

--- Plaintiff

Provision under which the applications are filed	U/o 1 R-10(2) R/w Sec. 151 of C.P.C.
Relief sought for	To include the proposed defendant
The date on which the applications are filed	03.06.2025
Number of the application	6
Date on which the objections are filed by the different	09.06.2026

opponents	
Date on which the order is passed	01.08.2026

ORDER ON I.A. No.6 FILED U/O 1 R-10(2) OF C.P.C.

This applicant Harish has submitted, advanced and introduced this application U/o 1 R-10(2) of C.P.C. Further the applicant is appealing and soliciting to come on record as 4th defendant to participate, contest and to be sued in the present suit as the defendant No.4.

2. Further in order to vouch, grapple, ratify and authenticate the said application, an affidavit being applied the contents of the said affidavit in terse reveal and discloses that, the suit is one which had been registered by the plaintiff as against the defendants for the relief of partition and separate possession. According to the applicant, the proposed party, person is also constitute and remained to be a member and part of the joint family of the plaintiff and the defendants.

3. Further it has been informed and simpered in the said affidavit that, one late.Hongaiah the father of the plaintiff and the defendants had 2 wives Shankamma and 1st plaintiff Rathamma. Further it has been informed and contended in the said affidavit that, the proposed applicant is the 4th son of one late.Hongaiah and his wife Shankamma. However, despite he being the integral and primary part of the entire family, the

plaintiffs willfully, malevolently and intentionally they have not incorporated, added and made him as a party to the suit and proceedings before this court.

4. Therefore according to the applicant, the suit cannot be decided completely in his absence and he is very necessary and proper party to the proceedings. In order to defeat, deny and eschew the right of the applicant herein, he has been intentionally quit and left out in the proceedings of the suit, it is clearly infringement of the legal right which has been created in favour of the proposed party and hence for all these reasons, his active participation and representing the suit is mandated, essential and necessary to adjudicate and settle all the real conflicts between the parties.

5. Therefore according to the applicant, no greater hardship irreparable injuries, impediment and any other forms of loss caused to the plaintiffs by permitting the applicant to represent the suit. On the adversely contrary, conversely, it will certainly have greater repercussion, effect, if the application is refused and the applicant is not allowed to represent the suit. Therefore for all these reasons, the applicant/proposed defendant No.4 is orison, obsecration, importunity and craving for insertion adding and to incorporate him as defendant No.4 so as to present his defence before this court.

6. Further retorting, filching, conflicting and dissenting and finally emulating the said application and opposing the contents therein, the plaintiff has challenged the said application protesting it with his statement of objections. According to the said plaintiffs, the application is not maintainable either in law or on facts and the same is liable to be dismissed.

7. Further according to the plaintiffs, as set out in their statement of objections, the proposed defendant No.4 is not at all related to the family of the plaintiffs or connected to the joint family properties. Further it has been predicated and simpered in the statement of objections that, the proposed defendant No.4 is not at all the son of one Shankamma and Hongaiah and therefore he had no title, interest over the schedule property and he has not recognized any lawful right over the same. Further it is announced, informed and deployed in the said statement of objections that, the proposed defendant is totally stranger to the family of the plaintiffs and the defendants. There are no documentary piece of evidence which are submitted and produced before this court so as to enable and facilitate the court regarding the nexus and liaison that he has been falsely contending and claimed in the affidavit.

8. Further it is said that, the proposed defendant No.4 has suppressed the above facts and filed the false, frivolous application in order to grab the share of the plaintiffs. According to the plaintiff the 4th defendant is none other than the son of one Ramakrishna

and Parvathamma who are no way related to the family of the plaintiff at any time and therefore he is not the legal heir of the plaintiff Hongaiah and Shankaramma. Such being the case of the proposed defendants, he is not entitled to any share over the schedule properties. The proposed defendant No.4 has suppressed the above facts and filed this false application to grab the lawful share of the plaintiffs. Hence, the plaintiffs pray for dismissal of the application.

9. Heard the counsels representing the applicant herein and also the plaintiff who canvassed their arguments upon the application and also they have vehemently and strenuously canvassed their submission supporting their pleadings of the application and objections.

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

1) Whether applicant has made out sufficient grounds for allowing the present application?

2) What Order?

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

Point No.1: In the Negative

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

REASONS

12. POINT NO.1:

The application has been filed U/o 1 Rule 10(2) of C.P.C seeking impleadment of the applicant as Defendant No.4. The primary contention of the applicant is that he is the son of late Hongaiah and Smt. Shankamma and is a member of the family to which the plaintiffs and the existing defendants belong. According to him, he has a direct and substantial interest in the suit schedule property and therefore any decree passed in his absence is likely to prejudice his rights and may not effectively determine the real controversy involved in the suit.

13. The plaintiff has seriously disputed the status of the applicant and has contended that he is not the son of late.Hongaiah and Smt.Shankamma, but is the son of late.Ramakrishna and Smt.Parvathamma, who are strangers to the family. It is further contended that the applicant has no semblance of right, title, or interest over the suit schedule property and that the application has been filed only with an intention to protract the proceedings and interfere with the rights of the plaintiff.

14. At this stage, this Court is not expected to conduct a roving inquiry or record a conclusive finding regarding the genealogy of the parties or the title claimed by the applicant. Such disputed questions of fact can be effectively adjudicated only after the parties

are afforded an opportunity to adduce oral and documentary evidence during the course of trial. While deciding an application U/o 1 Rule 10(2) CPC, the Court is only required to ascertain whether the presence of the proposed party is necessary or proper for the complete and effective adjudication of the issues involved in the suit.

15. The expression "necessary party" denotes a person in whose absence no effective decree can be passed, whereas a "proper party" is one whose presence would enable the Court to completely, effectively, and finally adjudicate upon all the questions involved in the proceedings and avoid multiplicity of litigation.

16. The applicant has specifically asserted an independent claim over the suit schedule property by tracing his status through the common ancestors of the family. Though the plaintiff disputes the said claim, such denial by itself cannot be a ground to reject the application at the threshold. If ultimately the applicant is found to have no right or interest, the same can always be determined on the basis of evidence. Conversely, if the applicant is excluded at this stage and his claim is subsequently found to be genuine, any decree passed in his absence may give rise to further litigation and conflicting decisions.

17. The settled principles governing impleadment favour inclusion of parties whose presence may assist the Court in effectively and

completely adjudicating the real controversy between the parties. Allowing the applicant to come on record does not amount to recognizing or declaring his rights. It merely enables him to participate in the proceedings and establish his claim in accordance with law. The plaintiff will have every opportunity to challenge the applicant's status and claim during the trial.

18. This Court is therefore of the considered opinion that the presence of the applicant is necessary for the complete, comprehensive, and effective adjudication of the disputes involved in the suit. His impleadment would also avoid multiplicity of proceedings and ensure that all rival claims relating to the suit schedule property are decided in one and the same suit. Accordingly, this Court finds sufficient grounds to allow the application. Therefore, this court inclined to answer the **point No.1 in the Affirmative.**

19. POINT NO.2:

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

ORDER

The IA No.6 filed by the applicant U/o 1 Rule 10(2) of C.P.C is hereby allowed.

The applicant shall be impleaded as Defendant No.4 in the suit.

Further the plaintiffs are directed to make necessary amendments as per the order passed by this court and shall also furnish the amended copy of plaint afresh.

[Dictated to the Steno, transcribed by her. Corrected and then pronounced by me in the Open Court on this the 01st day of August 2026]

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