

KAMS500000172021



**IN THE COURT OF SENIOR CIVIL JUDGE & JMFC
NANJANGUD**

Present : **Sri. Kamalaksha D., B.A., LL.B.,**
Senior Civil Judge & J.M.F.C.,
Nanjangud.

Dated this the 8th day of July 2025

O.S./10/2021

Plaintiff: Mahadevamma

-V/s-

Defendant: Mahadeva

I.A. VI

Applicants : 1. Javanappa
2. Jayamma

-V/s-

Opponent : Mahadeva

... defendant

ORDERS ON I.A.VI FILED UNDER ORDER
I RULE 10(2) OF CPC

The applicants by name Javanappa S/o late Nanjappa and Jayamma W/o Devanna D/o late Nanjappa have filed the said application to implead them as the defendants in the said suit.

2. In the affidavit it is sworn that, the plaintiff Mahadevamma has filed the suit for partition and separate possession against the defendant in respect of the property bearing Sy.No.288/1 and 2 measures 4.1 acres situated at Hadinaru Village of Nanjangud Taluk, which is also the schedule property of O.S.208/2021 filed by the applicants. The applicants are having property right over the suit schedule properties, but the plaintiff while filing partition suit deliberately excluded them from the litigation. Subsequently, the fault act of the plaintiff came to their knowledge. Immediately after knowing the same, they have come up with this application before the court with a specific prayer to implead them as necessary parties. Hence, prayed to allow the application.

3. Per contra the plaintiff filed objections to the application stating that, the entire facts narrated by the proposed defendants in the affidavit are totally false and away from truth, because their participation as defendants in the ongoing suit is not required. It is further explained that, the proposed defendants have not made any prima-facie grounds to implead them as necessary parties. It is also mentioned that, the proposed defendants are making attempt to participate in this suit only to cause unnecessary trouble to the plaintiff. Hence, the plaintiff prays to reject the application.

4. Heard. Perused pleadings and materials placed on record. The points that arise for consideration are:

1. Whether the proposed defendants made out grounds to implead them as necessary parties i.e., as defendants No.2 and 3?
2. What order ?

5. The above points are answered as follows :-

Point No.1 : In the affirmative

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

REASONS

6. **Point No.1:-** The scope of Order I Rule 10 of C.P.C. is to implead or delete the necessary or unnecessary party. Indeed the instant suit is for partition and separate possession. The proposed defendants claim that the plaintiff by avoiding real situation filed a suit for partition and separate possession, thereby she making attempt to avoid their rights in the properties. The plaintiff explained that the proposed defendants have not made prima-facie case, however consideration of the prima-facie case is insignificant at this moment, because if application is not allowed, it would definitely cause hardship to the applicants, because suppose application is rejected their valuable property right will be curtailed at this stage. It is pertinent to note that though the plaintiff has objected, but she has not objected the relationship of the proposed defendants. Suppose the proposed defendants have no

right over the said properties, it will be determined at the end of the stage. However, the proposed defendants have right over the properties, their participation is very much required. If application is allowed, it will not cause hardship to the plaintiff, but it will cause hardship to the proposed defendants if rejected. Hence, **point No.1** is answered **in the affirmative**.

7. **Point No.2:-** In view of the findings on the above point, this Court proceeds to pass the following:

ORDER

I.A.VI filed by the applicants under Order I Rule 10(2) of C.P.C. is allowed with no order as to cost.

The applicants are permitted to come on record as defendants No.2 and 3.

(Dictated to the stenographer, transcribed by her on computer, revised, corrected and then pronounced by me in open Court on this the 8th day of July 2025).

(Kamalaksha D.)
Senior Civil Judge & J.M.F.C.,
Nanjangud.