

KAMS500001342023



**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 27th day of July 2026

O.S./46/2023

Plaintiff:

A.V.Shivarudrappa
S/o late Veerappa,
aged about 61 years,
residing at Door No.30, 2nd Cross,
2nd Main Road, Cauvery Marga,
Opposite Carmel School,
Srikanteshwara Badavane,
Nanjangud Town,
Mysuru District.

-V/s-

Defendants:

1. B.Dakshayini
W/o late Shambulingu M.,
aged about 39 years,
2. Kumari Dhatrihriya S.
D/o late Shambulingu M.,
aged about 11 years,

minor defendant No.2
represented by her natural guardian
mother defendant No.1

Both are residing at
Door No.98,
Ramaswamy Layout,
Nanjangud,
Mysuru District.

Also residing at
Basavanagudi Beedhi,
Kajjihundi Village,
Hosa Malangi Post,
Kasaba Hobli,
Kollegal Taluk,
Chamarajanagar District.

I.A. VIII

Applicant : A.V.Shivarudrappa
.....plaintiff
(By Sri. K.S.M., Adv.)

-V/s-

- Opponents**
1. M/s Mahadeshwara Enterprises,
A partnership firm,
having office at #98,
"Ramaswamy Layout,
Nanjangud, Mysuru District.
Represented by its partners
defendant No.1 and proposed
defendant No.4
... proposed defendant No.3
 2. B.Parashivamurthy
S/o Basavanna M.,
aged about 35 years,

residing at #172, Kajjihundi Village,
Hosamalangi Post,
Kollegala Taluk,
Chamarajanagara District.

(By Sri. D.S.G., Adv.)

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

The applicant/ plaintiff has filed this application to implead the proposed defendants in the above matter.

2. In the affidavit it is sworn that, after filing of the suit it is came to the knowledge of the applicant that chit fund business being run by the defendant No.1 in the name and style of Mahadeshwara Enterprises, which was a partnership firm registered in the office of District Registrar, Mysuru vide firm No.MYS-F327-2015-16, wherein the defendant No.1 and the proposed defendant No.4 were the partners. The 3rd defendant is the firm under the name and style of Mahadeswara Enterprises carrying a chit fund business. The 4th defendant is the partner of the said enterprises, equally and severally liable to repay the amount with 3rd defendant. The similar

application was filed before this court as I.A.IV and the said application was dismissed on 13.11.2024 by opinion that there are no documents to prove the existence of Sri Mahadeswara Enterprises. However, after dismissal of the application, the plaintiff traced out the documents for existence of Mahadeswara Enterprises and has come up with the present application. If the present application is not allowed the plaintiff will be put to great hardship. Hence, prays to allow the application.

3. Per contra, the proposed defendant No.4 filed objections saying that the entire narration of the application are totally false, because no such Enterprises is in existence as on the date of application. There is no pleading regarding payment of money in favour of the proposed defendants in the plaint. The suit is for recovery of money. The cheque which has been mentioned in the plaint not belongs to the proposed defendants. On this count only the application may be dismissed. The cheque belongs to the deceased Shambulingu. There is no role of

the proposed defendants with the said cheque. Hence, proposed defendant No.4 prays to reject the application.

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

1. Whether the applicant/ plaintiff has made out grounds to implead the proposed defendants in the suit?

2. What order ?

5. The above points are answered as follows :-

Point No.1 : In the negative

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

REASONS

6. **Point No.1:-** The present money recovery suit is filed by the plaintiff against the defendants. Ex.P.1 is the personal cheque of Shambulingu. The allegation of the plaintiff that the 1st defendant handed over Ex.P.1 cheque to discharge the legally recoverable debt or existing loan. Now the plaintiff has come up with this application to

implead Mahadeshwara Enterprises as necessary party to the plaint. The cheque itself shows that the presence of Mahadeshwara Enterprises is not required to determine the suit, because Ex.P.1 cheque is not company cheque, but it is individual or personal cheque of the deceased husband of the 1st defendant. It is not proper to bring an unnecessary person as party in a litigation. A necessary party is an individual or entity whose presence is absolutely essential for a court to pass a legally binding and effective decree. In case necessary party is missing out, the court cannot resolve the dispute and the entire suit may be dismissed. Necessary party must be included, because no effective decree or judgment can be ordered in the absence of such necessary party. So, a necessary party is one without whom no order can be made effectively. Parties whose rights are directly affected by the parties if such parties are not made as necessary parties, even a third party impleaded or included as a party in a suit. But it is pertinent to note here that cheque is standing in the name of husband of the 1st defendant, as stated above it is

an individual cheque but not as company cheque. There is no prima-facie proof of existence of Mahadeshwara Enterprises. Therefore, it is not proper to implead unnecessary party to the present matter. Hence, **point No.1** is answered **in the negative**.

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

ORDER

I.A.VIII filed by the applicant/plaintiff under Order I Rule 10 (2) of C.P.C. is dismissed. No order as to cost.

(Dictated to the stenographer, transcribed by her on computer, revised, corrected and then pronounced by me in open Court on this the 27th day of July 2026).

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