

O.S.9/2021

ORDERS ON I.A. DATED 29.11.2022
UNDER ORDER I RULE 10(2) of C.P.C.

The applicants/proposed defendants have filed the present application to implead them as defendants in this case, when the case was at the stage of appearance of defendant No.1.

2. The plaintiff has filed statement of objections through her counsel.

3. The defendants 2 to 18 have filed statement of objections through their counsel.

4. Heard.

5. The suit is for the relief of declaration and permanent injunction. Applicants are said to be the L.Rs. of late Mantelingu one of the sons of Mantaiah. Sri. Mantelingu is said to have died on 11.06.1999. Mantaiah had a sister who had no issues as such she had adopted Mantelingu. As such Mantelingu was the sole L.R. of Rachamma. After the death of Rachamma, Mantelingu was in possession and enjoyment of properties of

Rachamma. After the death of Mantelingu applicants are in joint possession of the suit schedule properties. Smt. Nagamma is the widow of uncle of the 2nd applicant. She in collusion with defendants is making illegal profit.

6. Defendants 2 to 18 resisted the I.A. that applicants have no right over 1 acre 14 guntas of land in Sy.No.48/1. Because defendant No.1 was in possession of the said land after the death of her ancestors. The said land is converted and sold to defendants 2 to 18 and others by defendant No.1. Moreover many litigation were there in respect of suit land and in all the suits, mother of defendant No.1 by name Smt.Rachamma was defendant, after her death defendant No.1 was the defendant and all the suits were decided in favour of defendant No.1. The defendants 2 to 18 have compromised the suit with the plaintiff in respect of land in Sy.No.48/1 measuring 1 acre 14 guntas. Therefore, the defendants 2 to 18 are against the applicants for coming on record as defendants.

7. According to the plaintiff the applicants have not produced any documents to substantiate that they are the members of the joint family of the present plaintiff.

8. The suit was instituted by one of the sons of Mantaiah. The applicants are said to be the L.Rs. of another son of Mantaiah said to be given in adoption to Rachamma. Defendant No.1 is the daughter of Rachamma. Applicants claim to be in possession of suit schedule properties after the death of their father who according to the applicants had succeeded to the properties of Rachamma. However, plaintiff is the dominus litis and it is left to him to bring the person on record of his choice.

9. In this case applicants have not produced any document to show their right over the suit schedule properties. In case the applicants have any right they can seek remedy in appropriate proceedings. The right of the applicants cannot be decided in this suit. Hence, they are not necessary parties to the suit. Hence, the following:

ORDER

I.A. dated 29.11.2022 filed by the applicants/proposed defendants under Order I Rule 10(2) of C.P.C. is rejected.

(B.Anupama Lakshmi)

Senior Civil Judge, Nanjangud.
20.09.2023.