

**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE & JMFC  
NANJANAGUDU**

**PRESENT**

**Sri. Sathisha K.G.,** B.A.,LL.B.  
Principal Civil Judge & JMFC., Nanjanagudu

**Dated: 17<sup>th</sup> day of July, 2025**

**O.S.No.270/2024**

**PLAINTIFF**        :: Sri. Ramachandra Bhat,  
                              S/o Ganapati Bhat,  
                              Aged about 48 years,  
                              R/at No.LIG-150,  
                              'M' Block, 2<sup>nd</sup> Stage,  
                              CITB, Kuvempunagar,  
                              Mysuru-23.

(By Sri. Vinay Babu, Advocate)

**- V/s -**

**DEFENDANTS**    :: 1) Smt. Malamma,  
                              W/o Late Chikkandegowda,  
                              Aged about 68 years.  
                              2) Smt. Neelamma alias Neela,  
                              W/o Late Siddarama,  
                              Aged about 41 years.  
                              3) Master Naveen,  
                              S/o Late Siddarama,  
                              Aged about 17 years.  
                              4) Master Shivu,  
                              S/o Late Siddarama,  
                              Aged about 15 years.

Defendant No.3 & 4 are Minor.  
Representing through their natural  
guardian Smt. Neela the mother i.e.,  
Defendant No.2.

All are R/at Kurihundi Village,  
Hullahalli Hobli,  
Nanjanagudu Taluk, Mysuru District.

(By Sri. Mallikarjuna. N.L. Advocate)

**Parties in I.A.No.2**

**APPLICANT / PLAINTIFF** :: Sri. Ramachandra Bhat.  
V/s

**PROPOSED OPPONENT** :: Sri. R. Jeevan,  
S/o Ramegowda,  
Aged about 25 years,  
R/at Kurihundi Village,  
Hullahalli Hobli,  
Nanjanagudu Taluk,  
Mysuru District.

Provision under which the application is filed	Under order 1 Rule 10(2) of CPC
Relief sought for	To implead as Defendant No.5
The date on which the application is filed	14.03.2025
Number of the application	IA.No.2
The date on which the objections are filed by different opponents	Objections not filed
The date on which the orders were passed on the said application	17.06.2025

**ORDER ON I.A.No.2 FILED U/O.I RULE 10(2) R/W SECTION  
151 OF C.P.C. BY THE PLAINTIFF**

When the matter is set down for plaintiff's evidence the plaintiff has filed this application seeking permission to implead

proposed defendant No.5 as additional defendant in this suit in order to adjudicate the matter fully and finally in the interest of justice.

2. In the affidavit filed in support of I.A.No.2, the plaintiff has stated that, during pendency of this suit the Defendant No.1 to 4 have sold the suit schedule property in favour of proposed defendant even though interim order was in force. Such being the fact, the Defendant No.1 to 4 taking law into their hands with a malafide intention to defraud him and sold the suit schedule property to the proposed defendant. Hence, the proposed defendant is necessary party in this suit. If the application is allowed no prejudice will be caused to the other side. On the other hand, he will be put to irreparable loss. Hence, he sought for allow the application.

3. After service of notice, the proposed defendant did not appear before the court and thereafter matter posted for hearing on application.

4. For disposal of I.A.No.2, the following points arise for consideration:-

1. Whether the proposed defendant is necessary or proper party to the suit in order to proper adjudication of the suit?

2. To what order?

5. Having heard the arguments. My findings to the above points areas under:-

Point No.1 : In the Affirmative

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

**: REASONS :**

6. **POINT NO.1:-** Order I Rule 10 of C.P.C., enables the Court to add any person as a party at any stage of proceedings, if the person whose presence in Court is necessary in order to enable the Court to effectively and completely adjudicate upon and settle all the questions involved in the suit. Avoidance of multiplicity of proceedings is also one of the objects of the said provision. Order I Rule 10 of C.P.C., empowers the Court to substitute a party in the suit who is a wrong person with a right person. If the Court is satisfied that, the suit has been instituted through a bonafide mistake and also that it is necessary for the determination of the real matter in controversy to substitute a party in the suit, it may direct it to be done. When the Court finds that, in the absence of the

persons sought to be impleaded as a party to the suit, the controversy raised in the suit can't be effectively and completely settled, the Court would do justice by impleading such persons. Order I Rule 10(2) of C.P.C., gives wide discretion to the Court to deal with such a situation, which may result in prejudicing the interest of the affected party if not impleaded in the suit, and where the impleadment of the said party is necessary and vital for the decision of the suit.

7. In the present case on hand, the plaintiff has filed this suit against the defendants for the relief of Specific Performance of Contract on the basis of agreement dated 06/04/2022. Even though defendants have appeared through their counsel they did not contest the suit by filing written statement. Further the proposed defendant did not oppose the application filed by the plaintiff. Hence, at this stage if the proposed defendant is made as a party, the present matter can't be adjudicated effectively. Hence, the proposed defendant is a proper party to adjudicate the suit.

8. At this stage it is relevant to mention Judgment rendered by the Hon'ble Supreme Court of India reported in

**2025 INSC 611 – M/s J.N. Real Estate Vs Shailendra Pradhan and others** wherein, the Hon'ble Supreme Court held as under;

“32. Having regard to the material on record, we are of the view that the High Court should not have interfered with the order passed by the Trial Court impleading the original defendant No.8 (appellant herein) as one of the defendants in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India, 1950. We say so because the genuineness of the transaction, if any, including the genuineness of the documents is to be looked into in the course of the trial. A party who is seeking impleadment may not be a necessary party but still, could be termed as a proper party. There is a fine distinction between a necessary party and a proper party. A necessary party is a person in whose absence no effective decree could be passed a tall by the court. Whereas a proper party is one who though not a necessary party is a person whose presence would enable the court to effectively and adequately adjudicate upon all matters in dispute in the suit.

33. We need not say anything further in the matter. We may only say that insofar as the transaction between (Late) Mr. Sameer Ghosh and the original defendant No.8 (appellant herein) is concerned, the same shall be a subject matter of trial. We do not express any opinion in this regard at this point of time. We may only say that the presence of the appellant in the suit is required for proper and effective adjudication of the dispute in the suit. We

say so while giving additional regard to the fact that the original plaintiff has not opposed the impleadment of the original defendant No.8 in his suit. We keep all contentions open for all the parties concerned to be canvassed before the Trial Court.

34. In the result, these appeals succeed and are hereby allowed. The impugned orders dated 12.12.2023 and 12.06.2023 respectively in Review Petition No.717 of 2023 and Miscellaneous Petition No.5567/2018 respectively passed by the High Court are set aside and that of the Trial Court is restored. Accordingly, the appeals stands allowed in the aforesaid terms”.

9. In view of law laid down by the Hon'ble Apex Court the proposed defendant may not necessary party but he is a proper party to adjudicate the suit. Hence, if the application is allowed, no hardship or injury would be caused to the other side. On the other hand, if it is rejected, it would lead to multiplicity of proceedings. Therefore, there are no grounds to reject the prayer of the plaintiff. Hence, the proposed defendant is proper party for proper adjudication of the suit. Accordingly, Point No.1 is answered in the **Partly Affirmative**.

10. **POINT NO.2:-** In the light of above discussion, this Court proceed to pass the following:-

**ORDER**

I.A.No.2 filed by the plaintiff U/O.I Rule 10(2) of C.P.C., is hereby allowed and he is permitted to implead proposed defendant as Defendant No.5 in this suit.

The plaintiff is directed to amend the cause title of the plaint and to file amended plaint.

(Dictated to the Stenographer directly on computer, typed by him, the same is corrected, revised, signed and then pronounced by me in the open Court, on this the **17<sup>th</sup> day of July, 2025**)

**(SATHISHA K.G.)**  
Principal Civil Judge & JMFC,  
Nanjanagudu.