

**KAMS700013552018**



**IN THE COURT OF SENIOR CIVIL JUDGE AT  
T. NARASIPURA.**

**PRESENT**

**SRI. HANUMANTHA G.H.**

B.A.L., LL.M.

SENIOR CIVIL JUDGE, T. NARASIPURA.

**O.S. NO.47/2018**

**DATED THIS 23<sup>rd</sup> DAY OF OCTOBER, 2024.**

**PLAINTIFF** : Sri. N Kiran Raj  
S/o Late U. Nemichand,  
Age: 46 years,  
R/at: # 1707, Chikka Vakkalageri,  
Lashkar Mohalla,  
Mysuru.

(By Sri. R.S. Anand, Advocate)

**Vs.**

**DEFENDANTS :** 1. Sri Chowdegowda  
S/o Late Chowdegowda,  
Age: 65 years,  
R/at: Kempaiahnundi village,  
Kasaba Hobli, T. Narasipura taluk,  
Mysuru District and others.

(D-1 to 6 By Sri. B.M. Nagabhushanamurthy,  
Advocate)

**PARTIES TO I.A. NO.3****Applicants/Proposed Defendants**

- : 1. Sri K.C. Javanegowda,  
S/o Late Chowdegowda,  
Age: 60years.
2. Sri K.C. Krishna,  
S/o Late Chowdegowda,  
Age: 51 years.  
Both are R/at: Kempaiahnundi  
village, Kasaba Hobli,  
T. Narasipura taluk,  
Mysuru District
- (By Sri. S. Jayadevanna, Advocate)

**Vs.****Opponent/  
Plaintiff**

: Sri. N Kiranraj

i	Provision under which the application is filed	Order I Rule 10(2) of CPC.
ii	Relief Sought for	Impleading the party.
iii	The date on which the application is filed	28.07.2022.
iv	Number of the application	3
v	The date on which the objection is filed by opponents.	09.01.2024.
vi	The date on which the order was passed on the said application	23.10.2024.

**ORDER**

The proposed defendants have filed I.A. No.3 under Order I Rule 10(2) of C.P.C to bring them on record as the defendants No.7 and 8.

**2.** In an affidavit of I.A, the proposed defendants have stated that the plaintiff filed the false suit by colluding with the defendants to knock of the suit property though it belongs to the joint family of the proposed defendants and they have joint right over it. Hence, they have filed the I.A to come on record. Accordingly, they have prayed to allow I.A.

**3.** The plaintiff has filed objection to I.A and prayed to reject it on the grounds that the proposed defendants have filed I.A though there is no any merit to consider it; they are not necessary parties to the suit and therefore, there is no necessity to consider I.A.

**4.** I have heard the arguments of learned counsel for both sides and perused the materials on record.

**5.** The points for consideration are as under:

1. Whether the proposed defendants are necessary parties to the suit?

2. What Order?

**6.** The answers to the above points are:-

Point No.1 : In the negative.

Point No.2 : As per final order.

## **REASONS**

**7. POINT NO.1:-** Learned counsel for the proposed defendants has prayed to allow I.A for the grounds mentioned in the I.A. He has relied upon the rulings reported in **AIR 1990 SC 854 and 2024 KCCR 1670** in support of his argument.

**8.** But, learned counsel for the plaintiff has prayed to reject I.A for the contentions raised in the objection. He has relied upon the ruling of Hon'ble High Court of Karnataka in **W.P. No.100847/2024 dated 27.05.2024 (Smt. Rasheedbanu and another Vs. Ashpakaahamad and others)** in support of his argument.

**9.** The plaintiff has filed the suit for the relief of specific performance against the defendants to enforce the agreement of sale dated 15.02.2016 on the ground that the defendants executed the said agreement of sale to sell the suit property in favour of the plaintiff for Rs.25,00,000/-. The defendants No.1 to 6 have contested the case of the plaintiff. Now, the proposed defendants want to come on record on the ground that they have joint right over the suit property as it is their ancestral property.

**10.** The perusal of the revenue records including the R.T.Cs and mutation register extract of the suit

property shows the name of the defendant No.1. The proposed defendants have not produced any document at this stage to substantiate their contention taken in I.A. The prima-facie materials are certainly necessary to determine the necessity of the proposed defendants to the suit. There is no such materials on the part of them to determine the said fact. Hence, the contents of the affidavit are not sufficient to hold that the proposed defendants are necessary parties to the suit. Thus, they are not necessary to adjudicate the lis of the parties. Therefore, they have not made out any ground to allow I.A. The ruling relied upon by the side of the plaintiff also helps to draw such conclusion. Accordingly, the **point No.1** is answered in the **negative**.

**11. POINT NO.2:-** In view of the finding on the point No.1, I proceed to pass following.

### **ORDER**

I.A. No.3 filed by the proposed defendants under Order I Rule 10(2) of C.P.C. is rejected.

There is no order as to costs.

(Dictated to the Stenographer directly on computer, typed by him, corrected and then pronounced by me in the open court on this 23<sup>rd</sup> day of October, 2024)

**(HANUMANTHA G.H.),**  
Senior Civil Judge,  
T. Narasipura.

(A Separate order is passed and pronounced in the open court)

**ORDER**

I.A. No.2 filed by the proposed defendants under Order I Rule 10(2) of C.P.C. is rejected.

There is no order as to costs.

Senior Civil Judge,  
T. Narasipura.

In I.A. No.2 filed under Order I Rule 10 of CPC, the plaintiff has prayed to bring the proposed defendant as the defendant No.12 on the ground that he is purchaser of the property of Sy.No.16/1 measuring 2 acres which is the part of item No.2 of the suit properties through the sale deed dated 29.12.2021 executed by the defendants No.1, 7 to 10.

The proposed defendant has, though appeared through his counsel, not filed any objection to I.A.

The fact that the proposed defendant is the purchaser of the above property is clearly found from the copy of the sale deed dated 29.12.2021 produced by the plaintiff. Hence, the proposed defendant is necessary party since the suit is for partition.

Accordingly, I.A. No.2 is allowed. The proposed defendant is made as the defendant No.12.

Advocate for plaintiff is to amend the plaint and file amended plaint.

Amended plaint by  
27.11.2024.

Senior Civil Judge,  
T. Narasipura.