

KAMS710054752022



**IN THE COURT OF CIVIL JUDGE AND JMFC,
AT T.NARASIPURA, MYSURU**

PRESENT

**SRI. CHETHAN ANNADANI MANJUNATHA, B.A., LL.M.,
Civil Judge & J.M.F.C.,
T.Narasipura**

DATED THIS THE 29th DAY OF JANUARY 2024

O.S./303/2022

PLAINTIFFS :: Suma and another
[By : Sri. M.D., Advocate]

V/s

DEFENDANTS :: Nijaguna and others
[D1 : By : Sri. C.S.B., Advocate
D2 : By : Sri. K.K.N., Advocate
D3 : By : Sri. K.R., Advocate
D4 : By : Sri. H.S.M.S., Advocate]

PARTIES TO I.A.No.III

**APPLICANT/
1ST PLAINTIFF** :: Suma

V/s

**OPPONENT/
DEFENDANTS** :: Nijaguna and others

Provision under which the application is filed	I Rule 10 R/W Section 151 of C.P.C.
Relief sought for	To implede Smt.Beby .B as defendant No.5

The date on which the application is filed	31.07.2023
Number of the application	I.A.No.III
The date on which the objections are filed by defendant opponents	Not filed
The date on which the orders were passed on the said application	29.01.2024

: ORDERS ON I.A. No.III :

During the stage of issues, the plaintiff has filed I.A.No.III under order I Rule 10 R/W Section 151 of C.P.C. seeking to implead Smt. Baby.V, W/o. C. Mahadevaswamy, Aged about 40 years, R/at. Mudukanapura Village, Sosale Hobli, T.Narasipura Taluk, as defendant No.5 in the present case.

2. In the affidavit accompanying the said application sworn in by the plaintiff No.1, it is submitted that, she has filed a suit against the defendants for the relief of partition and separate possession of suit schedule properties, wherein the defendant No.3 has sold a portion of item No.3 property measuring 1.11 acres which is numbered as Sy.No. 14/5 by virtue of registered Gift Deed dated 23.11.2021 in favor of proposed defendant No.5. Since the proposed defendant No.5 has rights in respect of the suit schedule property by virtue of the said registered

Gift Deed, it is necessary to implead her in the present suit. As such, prayed to allow to the application.

3. On the other hand, despite due service of notice on I.A.No.3 the proposed defendant No.5 failed to appear before the court. As such, the proposed defendant No.5 placed absent.

4. Heard counsel for plaintiffs on the said IA. I have perused the records of the case on hand, carefully and meticulously.

5. The points that arise for my consideration are as under:-

- 1. *Whether the proposed defendant No.5 is the proper and necessary party to the case on hand ?***
- 2. *What order ?***

6. My findings on the above points are as follows:

POINT NO.1 : In the Affirmative
POINT NO.2 : AS PER FINAL ORDER
for the following ;

:: REASONS ::

7. **POINT NO.1:** The records reveals that, the plaintiffs have filed suit against the defendants for the relief of partition and separate possession of the suit

schedule properties claiming 2/4th share in the suit schedule properties. The defendant No.3 filed written statement contesting the said suit. In para No.11 and 12 of the said written statement, the defendant No.3 has taken the contention that the land bearing Sy.No. 14/5 measuring 1 acre 11 guntas belong to defendant No.1 and the same has been gifted in favor of the proposed defendant No.5 by virtue of registered Gift Deed dated 23.11.2021, wherein the mutation i.e., khata in respect of the said property has been transferred in her name. Since the proposed defendant No.5 has subsisting rights in respect of the suit schedule property by virtue of registered Gift Deed, she is necessary party to the case. Since the presence of proposed defendant No.5 before the court is necessary in order to enable the court to completely and effectively adjudicate upon and to settle all the questions involved in the suit, this court is of the view that, the proposed defendant No.5 is a necessary party to the case on hand. In view of the same, I have answered this Point in the **Affirmative**.

8. **POINT NO.2:** For the aforesaid reasons, I proceed to pass the following ;

:: ORDER ::

The I.A.No.III filed by the plaintiff under Order I Rule 10

R/W Section 151 of C.P.C. is
hereby allowed.

(Dictated to stenographer directly on computer and computerized by her,
corrected, signed and then pronounced by me in the open Court on this the
29th day of January, 2024).

(SRI.CHETHAN ANNADANI MANJUNATHA)
CIVIL JUDGE & JMFC.,
T.NARASIPURA.