

**ORDERS ON I.A.No.VI.**

At the stage of Arguments, this I.A.No.VI is filed by the applicant under Order 1 Rule 10(2) R/w Section 151 of C.P.C., seeking to implead the proposed defendant as defendant No.4 in the above suit.

2. In this I.A.No.VI, it is stated that, the above suit has filed for the relief of partition and separate possession in respect of suit schedule properties. At the time of verification of the documents she has found that, on 01.10.2021 the defendant No.1, his wife, defendant No.2 & 3 have sold the house property in item No.2 of the suit schedule property measuring 15 x 30 feet to the proposed defendant. Therefore, the proposed defendant No.4 is the necessary party to the above suit to adjudicate the matter. Hence, prayed to allow the above application.

3. On the other hand, the notice was duly served on the proposed defendant No.4, but he has not appeared before the court to contest the application.

4. Heard the arguments of the plaintiffs sides and perused the materials available on record.

5. The following points arise for my consideration:-

1. Whether the proposed defendant No.4 is proper and necessary party to the above suit ?
2. What order?

6. My findings to the above points are as follows:-

Point No.1 : In the **Affirmative.**

Point No.2 : As per order,  
for the following:

**REASONS**

7. **Point No.1:-** The plaintiffs have filed this suit against the defendants for the relief of partition and separate possession. Now the plaintiffs have intending to implead the proposed defendant as defendant No.4 to the above suit on the ground that, on 01.10.2021 the defendant No.1, his wife, defendant No.2 & 3 have sold the house property in item No.2 of the suit schedule property to the proposed defendant. Therefore, the proposed defendant No.4 is the necessary party to the above.

8. I have completely gone through the Order I, Rule 10(2) of C.P.C., which reads as under:-

**"(2) Court may strike out or add parties.-** The Court may at any stage of the proceedings, either upon or without the application of either parties, and on such terms as may appear to the Court to be just, order that the name of any parties improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added."

9. As per this provision of law, this Court is having power to strike out or add parties in the suit during the pendency of the suit at any stage. In this case it is to be noted that the plaintiffs have filed the above suit for the relief of partition and separate possession. In the affidavit filed along with I.A.No.VI, it is stated that, on 01.10.2021 the defendant No.1, his wife, defendant No.2 & 3 have sold the tiled house property in item No.2 of the suit schedule property measuring 15 x 30 feet to the proposed defendant. Therefore, the proposed defendant No.4 is the necessary party to the above suit. But, in a similar case the Court observed that the state which carry for the interest of its people even though it not necessary but to make if the record proper, if any order is passed against them without bringing him as a party in the suit, then the order of this Court cannot be executed. Therefore, it is necessary to pass an order to implead the proposed defendant for the proper adjudication of the case. Order 1 Rule 10 of C.P.C. also shows that, a person may be added as a parties whether as a plaintiff or as a defendant when he ought to have been joined as a parties or when his presence is necessary in order to dispose of the suit completely and effectively. In this case, the proposed defendant No.4 is the necessary party in order to adjudicate the controversy involved in the suit effectively and completely. Moreover, if the proposed defendant No.4 is impleaded as a party, no harm would be caused to other side, rather it helps the effective adjudication. Therefore, this court is of the opinion that the applicant has made out sufficient grounds to

allow I.A.No.VI. Hence, Point No.1 is answered in the **Affirmative**.

10. **Point No.2:-** In the light of the above discussion, I proceed to pass the following:-

**ORDER**

I.A.No.VI filed by the applicant under Order 1, Rule 10(2) R/w Section 151 of C.P.C. is hereby **allowed**.

The proposed defendant as mentioned in the I.A.No.VI is impleaded as defendant No.4 to the above suit.

For Amendment and amended plaint.

Call on: 07.12.2024.

**Addl. Civil Judge & J.M.F.C.,  
T.Narasipura.\*\***