

15.07.2021.

ORDER ON IA No.VIII

1. That, the petitioners by name Yesudas J. S/o T. Jambayya and John Wasley J. S/o T. Jambayya have filed the application under Order 1 Rule 10(2) R/w Section 151 of Code of Civil Procedure, with a prayer permit them to implead in present case as proposed defendants No.5 and 6.

2. That, the said Yesudas J. in his affidavit has contended that their father during his life time had purchased the suit property and after his death the said property was transferred in the name of his elder brother i.e. the defendant No.1, himself and petitioner No.2. That, the said Yesudas J. has further deposed that the present plaintiffs intentionally have not implead him and his brother John Wasley as parties to the suit. That, the said Yesudas J. further deposed that he and his said brother become necessary parties to the suit and it is very much necessary to implead them as proposed defendants No.5 and 6.

3. That, the plaintiffs have filed their objections to said application denying all contentions of the said petitioners and has specifically contended that the suit land Sy.No.53 measuring 18 acres 30 guntas was in the name of Thimmayya S/o Moldga and the said Thimmayya had got 3 sons by names Hanumantha, Jambayya and T.Joshua and the said survey land was divided into two portions in the year 1985 itself and the same was got mutated in the name of David S/o Jambayya and T. Joshun under vide Mutation order No.58/1985-86 dated:- 02.05.1985. That, the said plaintiffs have further contended that prevailing circumstances does not permit to implead the petitioners as proposed defendants and if they are entitled for share in the suit land then they have got every right to proceed against the defendant No.1. That, the plaintiffs have further contended that the present application is not maintainable either in law or on facts and prayed for rejecting the same.

4. That, I have heard the arguments and perused the materials placed on record. That, the

following points arise for My consideration and determination:-

- 1) Whether the petitioners have made out the grounds that, they are necessary parties to the suit?
- 2) What order?

5. That, My answer to the aforesaid point is as under:-

Point No.1:- IN THE AFFIRMATIVE

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

REASONS

6. **Point No-1:-** It is to be noted here that, the petitioners have contended that the suit property had been purchased by their father and after his death the same was devolved upon them and defendant No.1 and the plaintiffs intentionally have not impleaded them in present suit.

7. It is to be noted here that, the object of Order I Rule 10(2) of Code of Civil Procedure, is to bring before the Court, at the same time or the persons interested in dispute so that, dispute may be finally determined at the same time in the presence of all the parties without delay,

inconvenience and expanse several actions and trial and inconclusiveness of adjudications. It is to be noted here that, a necessary party in one whose presence is indefeasible to the continuation of the suit, against whom the relief is sought and without them no effective decree can be passed.

8. It is to be noted here that, the petitioners become necessary parties to the suit and without them the present matter cannot be adjudicated effectively. It is to be noted here that, in view of My above findings and without much discussion point No.1 is answered in the **AFFIRMATIVE.**

9. **Point No.2:-** That, as discussed on point No.1, I proceed to pass the following:-

ORDER

That, the application filed by the petitioners under Order 1 Rule 10(2) R/w Section 151 of Code of Civil Procedure, is hereby allowed.

That, the petitioners by name Yesudas J. S/o T. Jambayya and John Wasley J. S/o T. Jambayya

permitted to come on record as proposed defendants No.5 and 6.

That, the plaintiffs are hereby directed to implead the said petitioners in present suit as proposed defendants No.5 and 6 and file amended plaint by 23.07.2021.

(Dictated to the Stenographer, transcript by him, corrected by me and then pronounced in the open court on this the 15th day of July 2021).

(Hema Pastapur)
I Addl. Senior Civil Judge and JMFC,
Raichur.