

ORDERS ON IA-XV

The third parties / proposed defendants No-4 to 6 appeared and filed IA No-15 U/o 1 Rule 10 (2) R/w Sec. 151 of CPC seeking permission to implead them as defendants 4 to 6 in the ends of justice. In support of it proposed defendant No.4 has sworn to her affidavit on her behalf and on behalf of other proposed defendants contending that they are the sisters of the plaintiffs, hence they are necessary parties.

2. The learned advocate for plaintiffs submits no objection to this application.

3. However, the defendant No.2 has filed his objection contending that the present application is filed at highly belated stage and it is not maintainable, as such he prayed to reject the application.

4. Heard both sides, perused the material available on record.

5. Now, the points that would arise for the consideration of this court are as follows:-

1) Whether the proposed defendants / third party applicants are proper and necessary parties to decide the present suit?

2) What order?

6. My findings to the above points are as under:

Point No-1: In the affirmative

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

REASONS

7. Point No-1: Sri. R. Bhimanna advocate for the proposed defendants contended that they are sisters of the plaintiffs and they are also coparceners and having their legitimate share in the suit properties. Without their presence, the effective decree cannot be passed in this suit, therefore they are proper and necessary parties to decide the present suit. Though the plaintiffs have not arrayed them as parties in this suit but they voluntarily appeared in this suit and moved the present application. If the application is allowed no harm or prejudice would cause to other side. Hence he contended that the application may be allowed.

8. Per contra, Sri. Mallangouda advocate for the defendant No.2 vehemently argued that the proposed defendants are no way concerned either to the plaintiffs or to defendants No.1 & 3 and this application has been moved at the fag end of the case only to harass the defendant No.2. He further contended that he has purchased the suit schedule properties in the year 1985 under a register sale deed much prior to coming in to force of amendment to Hindu Succession Act 1956, as such the present application is not at all maintainable. Therefore, the proposed defendants are not necessary parties to the present suit and he prayed to reject the application.

9. Having heard the arguments from both the sides, the plaintiffs who has filed the suit has submitted no objection to the present suit. The objection raised by the only person is defendant No.2, who is said to be the purchaser of the suit property. When the plaintiffs have not denied the relationship with the proposed defendants, then

the defendant No.2 being the purchaser of the suit land has not having any voice to dispute the relationship between the plaintiffs with the proposed defendants. Of- course the present application might have filed at fag end of the case but that will not be the ground to reject the present application when proposed defendants are coparceners, they are proper and necessary parties to the present suit. So far as, the contention of the defendant No.2 is concerned, it is with regard to the merits of the main case and now we are only discussing about whether the present application is maintainable or not.

10. On perusal of the application and the relationship between the proposed defendants with plaintiffs, I am of the considered opinion that the proposed defendants are not only proper but also necessary parties to adjudicate the present suit effectively and completely and without impleading them no effective decree can be passed. Therefore the present application is deserves to be allowed. Hence I answer above point No-1 in the affirmative.

11. Point No-2: For the foregoing reasons, I proceed to pass the following:

ORDER

I.A. No-15 filed by third parties / proposed defendants is hereby allowed.

Consequently, plaintiffs shall amend the plaint by showing them as defendants No.4 to 6 in the plaint and furnish the amended plaint on or before 16-4-2018.

Addl. Senior Civil Judge Raichur.