

**IN THE COURT OF THE SENIOR CIVIL JUDGE AND JMFC
SINDHANUR.**

**Present:- Sri. C.V.Sanath, B.Com., LL.B.,LL.M.
Senior Civil Judge and JMFC,
Sindhanur.**

Dated: This the 19th day of June, 2020

O.S.No.79/2014

Between:

M.Kirankumar : Plaintiff

(By Sri.S.A.G., Advocate,)

And

M. Durgamba and others : Defendants

(By Sri.M.A.G., Advocate)

IN IA No.7

M.Kirankumar : Applicant/Plaintiff

V/s

M.Durgamba & others : Opponent/Defendants

ORDERS ON IA No.7

This is an application filed by the plaintiff U/o 1 Rule 10(2)
R/w Sec. 151 of C.P.C.

2. The brief averments of the Affidavit filed in support of the application are as follows:-

That the suit is filed seeking partition and separate possession. The defendant No.1 who is not the absolute owner of the suit lands in Sy.No.164/* /2/A measuring 7.39 acres of Sultanpur village. She is said to have executed GPA in favour of K. Basavanagouda on 2-6-2009 in respect of the said land. The said GPA holder of 1st defendant is said to have executed a registered agreement of sale beg No. 3993/2018-19 dtd 13-06-2018 in favour of Hanamanthappa Nayak in respect of the said land without any consideration. The said agreement of sale is illegal, null and void and not binding on the plaintiff. The defendant No.1 illegally executed the said agreement of sale through GPA holder without consideration, during the pendency of suit. The GPA holder and purchaser are necessary parties to the suit. In their absence the suit cannot be properly adjudicated. Hence this application.

3. The notice of the application was duly served on the proposed defendant. In spite of due service of the notice he did not appear and not filed any objections.

4. Heard the arguments. Perused records.

5. The Points that arise for my consideration are as follows:-

**Point No. 1:- Whether the Applicant/
plaintiff proves that the
application filed by him
deserves to be allowed?**

Point No.2 :- What Order?

6. I answer the above points as follows:-

Point No.1 :- In the Affirmative

**Point No.2 :- As per the final orders for the
following.,**

:: REASONS ::

7. Point No.1:- This application is filed by the plaintiff he implead the proposed defendant to the suit. The plaintiff contends that the 1st defendant has executed a GPA in favour of K.Basavanagouda on 2-6-2009 in respect of Sy.No. 164/*/2/A measuring 7.39 acres Sultanpur village. The said GPA holder sold the land in favour of proposed defendant Hananmantha Nayak under registered agreement of sale beg no. 3993/18-19 dtd 13-6-2018 during the pendency of the suit.

8. This suit is filed for the relief of partition. The plaintiff alleges that the defendant No.1 executed an agreement of sale through GPA holder in favour of the proposed defendant in respect of one of the suit properties. The plaintiff produced the copy of said agreement of sale, the said agreement of sale is in

respect of one of the suit properties. Therefore the proposed defendant is a necessary and proper party to this suit. In his absence the suit cannot adjudicated properly. Therefore it is necessary to implead the proposed defendant for the proper adjudication of suit and to avoid multiplication of proceedings. Hence I answer the above point in the affirmative.

9. Point No.2:- For the above said reasons I proceed to pass the following order.

~:: ORDER ::~

I.A. No.7 filed by the plaintiff U/o 1 Rule 10(2) R/w Sec.151 of C.P.C. is hereby allowed.

The proposed defendant is impleaded to the suit as defendant No.6.

In the facts and circumstances of the case no order as cost.

(Dictated to the stenographer, transcribed by him the transcript revised by me, and then pronounced in the open court on this the 19th day of June, 2020)

**(C.V.SANATH)
Senior Civil Judge & JMFC,
Sindhaur.**