



**IN THE COURT OF THE PRL. SENIOR CIVIL JUDGE & CJM.,
AT RAMANAGARA**

:PRESENT:

**Presided Over by:- Smt.Saraswathi K N., BAL., LL.M.,
Prl. Senior Civil Judge & CJM.,
Ramanagara.**

O.S.No.147/2013

DATED : THIS THE 24th DAY OF JANUARY, 2023

Plaintiffs : Smt. Chikkammani and Others

-V/s-

Defendants : Sri.Marishetty and Others

I.A.No.11

Applicant : Sri.Manju -- (Proposed Defendant No.11)

-V/s-

Opponents : Smt. Chikkammani and Others -- (Plaintiff)

Order on I.A.No.11 under Order I Rule 10(2)

R/w Sec.151 of CPC.,

The Applicants/proposed Defendant No.6 to 15 have
filed this application to implead to them as the additional

Defendants in this suit on the ground that they are also the proper and necessary parties for the proper adjudication of the suit.

2. In the affidavit accompanying the present application, it is sworn by the Applicant/proposed Defendant No.11 that the Plaintiffs have filed this suit against the Defendants for the relief of partition and separate possession. That their right and interest is also involved in the subject matter of the present suit and that intentionally the Plaintiffs have not made them as the parties to the suit so as to engulf their right, title and interest over the suit schedule property. Hence, it is necessary to implead them as the parties to the suit.

3. Therefore, if the application is allowed, no loss and hardship is going to be caused to the other side. On the other hand, if the same is rejected, they will be put to loss and hardship. Accordingly, they have prayed to allow the application.

4. Per contra, the learned counsel for the Plaintiff has filed his objections to the present application by opposing to allow the same on the ground that the same is not maintainable and that the proposed Defendants are bound to come on record only after establishing their rights by submitting their family tree. That the relationship of the proposed Defendant is not known to them and that it is not known as to about which property, the proposed Defendants are claiming their right. That the proposed Defendant is silent about the suspicious will which is under question in this suit. Therefore, the present application is also liable to be dismissed. Hence, on these among other grounds, he has prayed to dismissed the application with costs.

5. The counsel for the Defendant No.1 has also filed his objections to the present application by opposing to allow the same on the ground that the proposed Defendants are in no way related either to the

Plaintiffs or the Defendants of this suit and they have filed this application at this belated stage only with an intention to waste the precious time of this court. Accordingly, the application is liable to be dismissed.

6. Heard the learned counsels for Applicant/Proposed Defendant No.6 to 15, the Plaintiffs and the Defendants and perused the materials on record.

7. The following points would arise for the consideration of this court:-

1) Whether the IA.No.11 filed by the Proposed Defendant No.6 to 11 under Order I Rule 10(2) R/w Sec.151 of CPC., deserves to be allowed?

2) If so, what order?

8. My answers to the above points are as under:-

Point No.1 : In the Negative;

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

REASONS

9. Point No.1:- Admittedly, the suit is one for partition and separate possession and this is a matter of 2013. The record further reveals that on the basis of the rival pleadings of the parties, this court has already framed the issues and when the case is about to be posted for evidence, the applicants have come up with the present application claiming that they are also the necessary parties to the suit.

10. It is pertinent to note that, according to the applicants, the Plaintiffs are their sisters and the Defendant No.1 and 2 are their cousins. Hence, they are also having the right, title and interest over the suit schedule properties. However the Plaintiffs as well as the Defendant No.1 in their objection statements have denied the alleged relationship of the applicants to their family. In such circumstance, the burden of proving the same is upon the applicants.

11. However it could be seen that, except the self serving affidavit of the applicants, there is no material placed on record by them to establish prima-facie their alleged relationship to the family of the Plaintiffs and the Defendants by the applicants. In such circumstance, it cannot be inferred that they are the necessary or proper parties to the suit.

12. Even otherwise, if the applicants really have any right over the suit schedule properties, they can agitate the same through a separate and independent suit. For this purpose, when the Plaintiffs, being the dominus litis are not claiming any relief against the proposed Defendants, the latter cannot be impleaded as the parties to the suit. Accordingly, this point is answered in the Negative.

13. Point No.2:- In view of my answer to Point No.1, I proceed to pass the following:-

ORDER

I.A.No.11 filed by the
Applicants/proposed Defendant No.6 to
15 under Order I Rule 10 (2) R/w
Sec.151 of the CPC., is hereby rejected.

In the circumstances no order as to
costs.

*(Directly typed by me on my official laptop, corrected, signed and
then pronounced by me in the Open Court on this the 24th day of January,
2023).*

(Saraswathi.K.N)
Prl. Senior Civil Judge & C.J.M.,
Ramanagara.