

23.10.2024

Plt: A.V.

D1 to 5: K.B.V.

D2: C.S.K.

D3: RCS

D4: Expt

PD6: B.V.L.

For orders on I.A.No.16

I.A filed by the	Plaintiff
Date of filing of I.A	15.03.2024

Date of filing of Objection	29.06.2024
Date of Order	23.10.2024

ORDERS ON I.A.NO.16 UNDER ORDER 1 RULE 10(2)
R/W SEC.151 OF CPC.,

This application is filed by the applicant Smt. Alpa kothari W/o Sripal Kothari to implead her as additional Defendant in this suit.

2. In the affidavit filed accompanying this application, applicant states that she has purchased land bearing Sy.No.26/5 measuring 21 guntas from one Sri. Munibhyrappa 2nd Defendant herein on 12.08.2015 and since the date of purchase, this applicant has been in possession of land bearing Sy.No.26/5 measuring 21 guntas. So, in order to establish her right and possession over the property, the presence of this applicant is very much necessary in this suit. That if this application is allowed no injustice would be caused to the Plaintiffs. Hence, he prays to allow this application.

3. On the other hand Plaintiffs counsel has filed this filed objections to this application contending that application is not maintainable either in law or on facts. It is further stated that this application filed by the applicant is pre matured one and same is liable to be dismissed. Hence, he has sought for dismissal application.

4. Heard both the side and perused the materials on record.

5. The following points arise for my consideration:-

(1) Whether presence of applicant Smt. Smt. Alpa kothari is necessary in the suit for effective adjudication of the dispute between the parties?

(2) What order?

6. My answers 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:-** When the case was set down for hearing on application filed under Order 39 Rule 1 and 2 of CPC., the applicant come with with the present application through her Advocate seeking her impleadment contending that she has purchased the land bearing Sy.No.26/5 measuring 21 guntas from Munibhyrappa and his family members and she has been in possession of the same. It is to be noted that the land bearing Sy.No.26/5 has been sought to be included in the plaint schedule by way amendment of plaint and said application has been allowed by this court today as I.A.No.13. As per the materials on record and averments

of the affidavit filed by the applicant, it appears that the applicant has interest over the land bearing Sy.No.26/5 measuring 21 guntas. The necessary party is a party in who's absence an effective decree cannot be passed. Proper party is a party who's presence would assist the court in adjudication of the controversy. If this application is not allowed it would leads multiplicity of proceedings. So in order to avoid multiplicity of proceedings it is just and necessary to permit the application to come on record as Defendant No.6 in the suit, it would not caused any injustice to the other side. With these reasons **I answer Point No.1 in the "Affirmative".**

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

ORDER

IA No.16 filed by the Applicant Smt. Alpa Kothari under Order I Rule 10(2) r/w 151 of CPC., is hereby allowed.

The applicant Smt. Alpa Kothari is permitted to come on record as Defendant No.6.

The learned counsel for the Plaintiffs is directed to carryout amendment in the cause title of the plaint by incorporating name of the

applicant Smt. Alpa Kothari as
Defendant No.6.
Call on:

(Lokesha)
Prl. Senior Civil Judge & CJM,
Ramanagara.