



**IN THE COURT OF THE 1st ADDITIONAL SENIOR CIVIL
JUDGE AND JMFC, RAMANAGARA**

Dated This 06th day of October 2023

:PRESENT:

Sri. Mahesh B.T.,
B.Com., LL.M.,
1st Addl., Senior Civil Judge and JMFC,
Ramanagara.

OS.No.162/2016

Plaintiff :- Sri.Venkatappa

V/s

Defendants :- Sri.Ramesh and Others

* * * *

I.A.

Applicant :- Sri.Chandra

--(Defendant No.8)

V/s

Opponents :- Sri.Venkatappa

- - (Plaintiff)

* * * *

**Orders on IA filed under Order I Rule 1
10(2) R/w Section 151 of C.P.C.,**



The applicant/proposed defendants No.8 filed the application praying to permit to implead them as parties as additional defendants in the suit as detailed in the application.

2. In the affidavit annexed to the application, the proposed defendant No.8 has stated that, the plaintiffs herein are nowhere concerned either to them as well as the defendants herein and also the suit schedule properties. They are strangers to them, the defendants as well as suit schedule properties. Even though they obtained the khata of the suit schedule properties Vide MR No.41 of 2003-04 and MR No. 109/2006-07 illegally in collusion with the revenue officials in the absence of any manner of right, title or interest nor possession over the suit schedule properties or any portion thereon, which khatha has been challenged by the defendants herein before the Assistance Commissioner Ramanagara Sub Division Ramanagara by preferring an



appeal in RA(LKP) No. 381/2011-12 and the said appeal came to be allowed by order dated:04.04.2016 and the khata has been restored in the name of original khatedar Kalyanilingaiah his grand father.

3. Further it is stated that, subsequently the plaintiffs herein have come up with this false and frivolous suit only by impleading the defendants herein because they have challenged the khatha before the Assistant Commissioner though they are aware of their right and possession and share in the suit schedule properties deliberately. Themselves and the defendants are being the joint family member and are in joint possession and enjoyment over the suit schedule properties. Since they have being the sharers of th suit schedule properties and the joint possession and enjoyment over the suit schedule properties which are undivided one hence they have instituted the suit in O.S.No. 196/2022 against the defendants and others including other



joint family properties on the file of Hon'ble Additional Senior Civil Judge Ramanagara claiming the relief of partition, separate possession and other reliefs and the same is pending adjudication wherein the present plaintiffs are not the parties. The plaintiffs are not in possession and enjoyment over any portion of the suit schedule properties. On the other hand they along with defendants and others who being the joint family members are in possession and enjoyment over the suit schedule properties. In order to establish their right possession and share in the suit schedule properties and to disprove that the plaintiffs are the strangers of our family and also the suit schedule properties they are just an necessary parties in the instance suit. Therefore, they are necessary parties to this suit. Hence, their presence as the defendants to this suit much necessary and for better adjudication of the suit. If the application is allowed no hardship caused to the plaintiff and if the same is



rejected they will be put to loss and great hardship to the applicant/proposed defendants No.8. Hence, the application.

4. The opponent/plaintiff has filed detailed statement of objections stating that, one Kalyangi Ningaiah was the mula purasha had 6 children namely Doddaningingaiah, Chaluvaiah, DoddaNingamma, Kalyani, Chikka Ningamma and Chalumamma. The first son namely Doddaningingaiag died and his wife Boramma and his only son Ningaiah also died as Bachelor at his age of 13. That as on the date of death of Ningaiah he was an 13 year hold and was an bachelor. That by suppressing the above fact the applicants have filed civil suit in O.S. No 196/2022 for partition claiming to be the legal heirs of Ningaiah.

5. Further it is contended that, the applicants have not approached this Hon'ble court with clean hands and suppressed material facts and filed above application and so original suit in OS. No 196/2022 with an intention to



knockoff the valuable property of defendants which is in the possession of the defendants in collusion with the plaintiff herein. Hence the application filed by the applicants is to be rejected as not maintainable and absolutely applicants have not produced any documents to show they are the legal heirs of Doddanigaiah in the above case nor in the suit filed by the applicants in O.S.No.196/2022 before this court nor properly explained how they related to the family of Doddanigaiah. A vague explanation offered is not at all believable by an ordinary prudent man. Hence, the above application without showing any justifiable reason and plausible explanation nor documents have filed. The reason shown and cause assigned are bald assertion not supported by any material. The above application is wholly merit less and manifestly vexatious and if the application is allowed more hardship will be caused to the plaintiff and if the same is rejected no hardship will be caused to the proposed



defendants. Hence, the plaintiffs have prayed to dismissed the application.

6. Heard and perused materials on record.

7. The following points arise for my determination:

1. *Whether the application as deserves to be allowed?*

2. *What order ?*

8. My findings on the above points are as under:

Point No.1 : *In the Affirmative;*

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

REASONS

9. **Point No.1:** The suit filed by the plaintiff against the defendants for the relief of declaration and permanent injunction of the suit schedule properties.



10. According to the proposed defendants No.8, the plaintiffs herein are no where concerned either to them as well as the defendants herein and also the suit schedule properties. They are strangers to them and the defendants as well as suit schedule properties. The plaintiffs are not in possession and enjoyment over any portion of the suit schedule properties. On the other hand they along with defendants and others who being the joint family members are in possession and enjoyment over the suit schedule properties. In order to establish their right possession and share in the suit schedule properties and to disprove that the plaintiffs are the strangers of our family and also the suit schedule properties they are just an necessary parties in the instance suit. Therefore, they are necessary parties to this suit. Per contra, the opponent/plaintiff has filed detailed statement of objections contended that, the applicants have not approached this Hon'ble court with clean hands and suppressed material facts and filed above application and so original suit in OS.No.196/2022 with an intention to knockoff the valuable



property of defendants which is in the possession of the defendants in collusion with the plaintiff herein and the applicants have not produced any documents to show they are the legal heirs of Doddanangaiah in the above case nor in the suit filed by the applicants in O.S.No.196/2022 before this court nor properly explained how they related to the family of Doddanangaiah. The reason shown and cause assigned are bald assertion not supported by any material. The above application is wholly merit less and manifestly vexatious. Now, the proposed defendants have stated the defendants and they are the joint family members and are the joint possession and enjoyment of the suit schedule properties. Because, in their absence if the suit is decided they will suffer hardship and the reasons assigned by the proposed defendant No.8 seems to be genuine and it is necessary to implead the proposed defendant No.4 to 10 in the case. Therefore, they are necessary parties to the suit. Hence, to meets ends of justice, the application deserved to allowed. Therefore, **Point No.1 is answered in the Affirmative.**



10. **Point No.2:** Based on finding in Points No.1, I proceed to pass the following:-

ORDER

IA filed under Order 1 Rule 10(2)

R/w 151 of CPC., by the proposed defendant No.8/applicant is allowed.

The proposed defendants are impleaded as the defendants No.4 to 10.

Call on for amendment by:

(Dictated to the Stenographer directly on computer, corrected by me and then pronounced in the Open Court on this the 06th day of October 2023).

(Mahesh.B.T)
1st Addl. Senior Civil Judge & JMFC.,
Ramanagara.