

THE COURT OF ADDL. SENIOR CIVIL JUDGE
AT RAMANAGARA

:PRESENT:

Smt. K.Srividya, B.A.L., LL.M.,
Addl. Senior Civil Judge,
Ramanagara.

O.S. No. 160/2012

DATED : THIS THE 9th DAY OF AUGUST 2016

Plaintiff : Smt. Puttarevamma.

-V/s-

Defendants : Smt. Munirangamma and others.

* * * *

ORDERS ON I.A. No.7

I.A.7 application is filed by the plaintiff under Order 1 Rule 10(2) r/w Sec.151 of CPC to implead the proposed defendants No.7 & 8. It is accompanied by affidavit. Objection is filed to the said application.

2. In the affidavit accompanying the application, the plaintiff states that, she has filed a suit for Partition and

Separate Possession in respect of suit schedule properties. Further contend, the 2nd defendant and his wife Sowbhagya i.e., proposed defendant No.7 has executed a sale deed with regard to item No.14 of suit schedule property in favour of proposed defendant No.8 in order to deprive the legal share of the plaintiff. The said act of the proposed defendant No.7 was done during the pendency of the suit. Hence, it is necessary to implead the parties for effective adjudication of the suit. Hence, prays for allowing the application. The application is accompanied by certified copy of registered Sale Deed dated 29.10.2014.

3. In the objection, filed by proposed defendant No.8 apart from usual denial of averments mentioned in the affidavit accompanying the application state that, the proposed 8th defendant is a bonafide purchaser. Further admit that the 2nd defendant and proposed defendant No.7 has executed a sale deed in her favour and subsequently, all the revenue documents now stands in the name of the

proposed 8th defendant. Hence, prays for dismissal of the application.

4. In the objection filed by proposed defendant No.7 apart from usual denial of the averments mentioned in the affidavit accompanying the application she contends that, earlier on 28.06.2014 similar application was filed by the plaintiff which has been dismissed. As such, it is hit by principles of res-judicata. Further contend, the plaintiff unnecessarily filing number of applications in order to drag on the suit. Hence, prays for dismissal of the application with cost.

5. The following points arise for my determination:

(1) Whether the proposed defendants are necessary and proper parties to the suit ?

(2) What order ?

6. Heard the Counsels and perused the records.

7. 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

8. Point No.1 : The suit is filed for Partition and Separate possession. The plaintiff counsel argued that, during the pendency of the suit item No.14 of suit schedule property has been sold by defendant No.2 and proposed defendant No.7 in favour of defendant No.8. Hence, for effective adjudication it is necessary to implead the said parties. Per contra, the counsel for defendant No.8 argued that item No.14 of suit schedule property is self acquired property of proposed defendant No.8 which has been purchased from defendant No.2 and his wife. As such, prays for rejection of the application.

9. On perusal of the Court records it reveals that, an application was filed to implead proposed defendant No.7 and it was dismissed on 28.06.2014 on the ground that the gift deed executed by defendant No.2 in favour of defendant No.7 was during pendency of the suit as such, they would be bound by the decree. The certified copy of sale deed dated 29.10.2014 which is produced by the

plaintiff along with the application show that, the proposed defendant No.7 undisputedly the wife of defendant No.2 has sold item No.14 of suit schedule property in favour of proposed defendant No.8. The said act has been done after the order passed by this Court on 28.06.2014.

10. It is to be noted, the suit is filed for Partition and Separate possession. This Court views that for effective adjudication the proposed defendants who are proper parties to the suit have to be impleaded in order to arrive at just decision. Further, whether the proposed defendant No.8 is a bonafide purchaser or not is a matter which has to be determined during the course of trial. It is also to be noted that, the order dated 28.06.2014 does not bar this Court in impleading the proposed defendants No.7 & 8 because, the conduct of defendant No.2 and proposed defendant No.7 itself shows that to deprive the right of the plaintiff they sold the item No.14 of suit schedule property subsequent to the said order in favour of proposed

defendant No.8. Hence, for effective adjudication this Court views that, it is necessary to implead the said parties. With this observation, **Point No.1 is answered in the Affirmative.**

11. Point No.2 : Based on findings in point No. 1, proceed to pass the following:

ORDER

I.A.7 filed under Order 1 Rule 10(2) r/w Sec.151 of CPC by the plaintiff for impleading the proposed defendants is hereby allowed.

The proposed defendants are impleaded as defendants No.7 & 8.

The parties are directed to co-operate with the Court for speedy adjudication of the suit.

For amendment of plaint.

(K. SRIVIDYA)
Addl. Senior Civil Judge,
Ramanagara.