

ORDER ON I.A.No.8

The counsel for the Plaintiff has filed this application under Order I Rule 10 R/w Sec.151 of CPC., praying to implead the proposed Defendants as the additional Defendants in this suit.

2. In the affidavit sworn in support of I.A.No.8, it is sworn by the Plaintiff that she has filed this suit for partition and Separate Possession. That, during her cross-examination, it is pointed out to her that she has not made her sister Lakshamma as a party to this suit. As her sister Lakshamma is dead, her Lrs are the necessary parties to the suit. Hence, by allowing this application, no loss or hardship is going to be caused to the other side and on the other hand, by rejecting the same, she will be put to loss and hardship. Accordingly, she has prayed to allow the application.

3. It is seen that despite the service of notice of this I.A, Lrs of the deceased Lakshamma have not appeared and filed their objections to the I.A.

4. Heard the arguments of the counsel for the Plaintiff on the I.A and perused the materials on record.

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

i) Whether the I.A.No.8 filed by the Plaintiff under Order I Rule 10 (2) of the CPC deserves to be allowed?

ii) If so, what order?

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

Point No.1 : In the Affirmative;

Point No.2 : As per the final order

for the following:

REASONS

7. Point No.1:- Admittedly, the Plaintiffs has filed this suit against the Defendants seeking the relief of partition and separate possession. The Plaintiff has claimed in the suit that

the suit schedule properties are the ancestral and joint family properties of the Defendants and herself and that they are in joint possession and enjoyment of the same. That she too has right, share and interest over the suit schedule properties. In this regard, the Defendant No.14 in his written statement taken up the contention that the Lrs of the deceased Lakshamma are not made as parties to the suit and hence the suit is bad for non-joinder of necessary parties. Further the issues framed by this court would also go to show that there is an issue regarding non-joinder of necessary parties.

8. In such circumstance, considering the nature of the suit and to safeguard the interest of all the parties to the suit as well as that of the proposed Defendants and in order to avoid multiplicity of proceedings, it is considered just and proper to allow the I.A's. In the event of not impleading the proposed Defendants as the parties to the suit, it would not be possible for this court to adjudicate the matter completely

and effectively. On the other hand, by allowing these applications, no loss or hardship is going to be caused to the proposed Defendants. Accordingly, **this Point is answered in the Affirmative.**

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

ORDER

I.A.No.8 filed by the Plaintiff under Order I Rule 10(2) R/w Sec.151 of CPC., is hereby allowed.

The Plaintiff is permitted to implead the proposed Defendants as the additional Defendants in the suit.

Further, the Plaintiff is directed to carry out amendment to the cause title of the plaint and file amended plaint.

31-10-2022.

Prl. Senior Civil Judge & CJM.,
Ramanagara.