



I.A filed by the	Proposed Defendants
Date of filing of I.A	31.10.2023
Date of filing of Objection	18.01.2024
Date of Order	12.03.2024

IN THE COURT OF THE PRINCIPAL SENIOR CIVIL
JUDGE AND C.J.M., AT RAMANAGARA.

PRESENT:- SMT. SARASWATHI K.N., B.A.L., LL.M.,
Prl.Senior Civil Judge and C.J.M.,
Ramanagara.

DATED:- THIS THE 12th DAY OF MARCH, 2024

O.S.No.307/2015

Plaintiff :- Sri.Vishweshwaraiah

V/s

Defendants :- Smt.Bhramarambha and
Others.,

IN I.A.No.8

Applicants :- Sri. Sanjeevaraju T.E.
Sri. Narasimhamurthy N.
..... (Proposed Defendants)

V/s

Opponents :- Sri.Vishweshwaraiah



..... (Plaintiff)

* * *

ORDER ON I.A.No.8

This application is filed by the proposed Defendants seeking to permit them to come on record as the additional Defendants in the suit.

2. In the affidavit sworn in support of the present application, the applicant No.1 has sworn that, he, along with the applicant No.2 has purchased the suit schedule item No.4 property from the Defendant No.1 and her daughter Latha C.V. through registered sale deed dated:- 24.06.2022 and on the basis of the same, when they approached the revenue authorities to get the khata transferred to their names on the basis of the sale deed, they came to know about the Plaintiff having obtained the order of stay in this suit.

3. That the suit schedule item No.4 property fell to the share of the husband of the Defendant No.1 late Veereshmurthy. That the suit schedule property fell to



the share of the husband of the Defendant No.1 Veereshmurthy in the family partition among him and his brothers i.e., the Plaintiff and the Defendant No.3 of the present suit through partition deed dated:-19.10.2004 and since 2004, the khata pertaining to the properties which fell to the shares of the respective parties came to be transferred to their names.

4. That, already the Plaintiff has sold the property, which fell to his share in the partition among his brothers on 19.10.2004. By Suppressing about the partition deed dated:-19.10.2004 and also by not disclosing about the revenue documents transferred to their respective names, with the consent of the parties as per the partition deed, the Plaintiff has filed this suit and also got the stay order by suppressing the true facts before this court. Therefore, it is necessary to implead them as the additional Defendants in the present suit.

5. By allowing this application, no loss or hardship is going to be caused to the other side and on the other hand, if the same is rejected, they will be put to great loss



and hardship. Accordingly, it is prayed to allow the I.A.

6. Per contra, the counsel for the Plaintiff has filed objections to the present application by opposing to allow the same on the ground that the same is not maintainable. The contents of the affidavit sworn by the impleading applicants is denied. That the present application is filed by the proposed Defendants by colluding with the other Defendants in the suit with an intention to drag on the proceeding. Accordingly, it is prayed to reject the application.

7. Heard both the sides and perused the material on record.

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

1. Whether the I.A.No.8 filed by the applicants under Order 1 Rule 10(2) r/w Sec.151 of CPC., deserves to be allowed?

2. If so, what order?

9. 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

10. Point No.(i):- Un-disputedly, the applicants are the purchasers of the suit schedule item No.4 property from the Defendant No.1 and her daughter Latha C.V. through registered sale deed dated:- 24.06.2022. The counsel for the proposed Defendants has furnished the photocopy of the partition deed dated:- 19.10.2004, the copy of the sale deed executed by the Plaintiff in favour of others on 12.12.2018 and 08.08.2005 in respect of the properties, which fell to his share, in the partition deed and also the copy of the sale deed executed by the Defendant No.1 and her daughter in favour of the Applicants on 24.06.2022. Now on the basis of the registered sale deed dated:- 24.06.2022, the applicants contended that, they are the necessary parties to the present suit, as they have purchased the suit schedule item No.4 property from the Defendant No.1 and her daughter.

11. Admittedly, this is a suit filed by the Plaintiff for



the relief of partition and separate possession in respect of the suit schedule properties. In such circumstance, when the purchasers of one of the item of the suit schedule properties intend to come on record, it is necessary to give an opportunity to get them impleaded. In fact, it is the bounden duty of the Plaintiff to impleading the such purchasers since they are the necessary parties to the suit. However, for the reasons best known to him, the Plaintiff has opposed the present application.

12. The record further reveals that, though this court had allow the I.A.No.6 filed under Order XXXIX Rule 1 and 2 r/w 151 of CPC., and thereby restrained the Defendant No.1 from alienating the suit schedule item No.4 property, till the disposal of the suit, it is evident from the copy of the sale deed produced by the counsel for the applicants that the Defendant No.1 has sold the suit schedule item No.4 property in favour of the Defendant No.4 through registered sale deed dated:- 24.06.2022, which is prior to the passing of the order on I.A.No.6.



13. However, considering the fact that the proposed Defendants are the purchasers of the suit schedule item No.4 property during the pendency of the suit from the Defendant No.1 and her daughter, it is necessary to implead them as the parties to the present suit. Therefore, it is necessary to allow the present I.A. Accordingly, this point deserves to be answered in the Affirmative.

14. Point No.(ii):- In view of my answer to Point No.1, I proceed to pass the following:-

ORDER

I.A.No.8 filed by the Applicants under Order I Rule 10 r/w Sec.151 of the CPC., is hereby allowed.

The applicants are permitted to be impleaded as the additional Defendants in this suit.

The counsel for the Plaintiff is directed to carry out amendment

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O.S.No.307/2015

to the cause title of the plaint and
file amended plaint.

(Dictated to the Stenographer, transcribed by her, the transcript thereof is corrected, signed and then pronounced by me in the open court on this the 12th day of March, 2024).

Prl. Senior Civil Judge & CJM,
Ramanagara.