

Orders on I.A dated 21.01.2020
filed by the Applicant
U/o 1 Rule 10(2) r/w Section 151 of CPC

The applicant has moved this application to permit him to come on record as additional defendant No.4.

2. In the affidavit appended to the application the applicant deposed that, he has filed a suit for Specific Performance in O.S 198/2015 pending on the file of Additional Senior Civil Judge at Ramanagara and that suit is based on the agreement registered dated 21.02.2011. Whereas the suit is also for Specific Performance based on the alleged agreement dated 22.02.2010. He has stated that, he has got right and interest in the suit schedule property, if he is not permitted to come on record he will be affected as he is necessary and proper party and he has also got valid defence. The plaintiff has suppressed the facts in order to effectively and completely adjudicate the matter and settle all the questions in the suit. He is a very necessary party as Additional defendant No.4. There is also likelihood of conflicting orders duplication of proceedings causing delay and multiplicity of proceedings. Hence, if the

application is allowed, the plaintiff will not be put to any prejudice. On the other hand, if the application is not allowed, he will be put to great hardship, irreparable loss and injury. Hence, prayed to allow the application. The advocate Sri. R.K.S has filed vakalath and copy of order sheet and plaint in O.S 198/2015 before this court.

3. The advocate for plaintiff has filed objection on the ground that, the application is not maintainable in law and barred by time. The suit is filed during the year 2013 and plaintiff has denied all the allegations in the affidavit. The present plaintiff is also not impleaded in O.S 198/2015. Hence, the applicant has filed this application to drag the matter. He has prayed to club the present suit with O.S 198/2015. Hence, the application will be dismissed with heavy costs.

4. Now, the following point emerge for consideration:-

Whether the application deserves to be allowed ?

5. Having heard the arguments of both the counsels, the court scrutinized the application in

the backdrop of pleadings of the parties and the objection statement raised against the same. Now, finding of the Court on the point is in the “Affirmative” for the following:-

REASONS

6. On perusal of the plaint, order sheet, application and objection. The present applicant is a necessary party. If the application is not allowed, he will be put to great hardship. On the other hand, no hardship will be caused to the plaintiff as he has got every right to prove his case on merits and also he can contradict the documents of the proposed applicant and cross examine the witnesses to prove his case on merits. So, under these circumstances, the applicant has made out the case. The contention of the plaintiffs is that, this case can be clubbed with O.S 198/2015 is not sustainable as the plaintiff has got right to appear in that case if he is a necessary party to that suit and he can come on record. Under these circumstances, the application is allowed on cost of Rs.200/-. As such, I am inclined to hold the point is in the “Affirmative” and proceed to pass the following.

ORDER

I.A dated 21.01.2020 filed by the applicant U/o 1 rule 10(2) r/w Sec. 151 CPC is allowed on cost of Rs.200/- payable by applicant to the plaintiff.

Resultantly, the proposed applicant is the defendant No.4 in the said suit.

(Dictated to the Stenographer directly on computer, corrected by me and then pronounced in the open Court on this the 03rd day of November 2020)

**Prl., Senior Civil Judge & CJM,
Ramanagara**