



IN THE COURT OF THE PRL.CIVIL JUDGE & JMFC.,
AT CHANNAPATNA.

PRESENT: SRI.MAHENDRA.M B.A, LL.B.,
Prl. Civil Judge & JMFC,
Channapatna.

Dated this 16th day of June-2023

O.S. NO.45/2018

PLAINTIFF : Sri.Guruvaiah

-V/s-

DEFENDANT : Sri.Cheluvashetty

I.A.No.II

APPLICANT
PLAINTIFF

: Sri.Guruvaiah,
S/o Late Govindaiah,
Aged about 60 years.

R/at Shravanaiahna Toopu Village,
Ballapatna Hamlet,
Virupakshipura Hobli,
Channapatna Taluk,
Ramanagara District.

(By Sri.J.P., Advocate)

-V/s-

OPPONENTS /
PROPOSED

DEFENDANTS: 1. Sri.Muttaiah,
S/o Late Venkataiah,
Aged about 60 years,

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R/at Ballapatna Village,
Virupakshipura Hobli,
Channapatna Taluk,
Ramanagara District.

2. The Panchayath Development Officer,
Virupakshipura Grama Panchayath,
Virupakshipura,
Channapatna Taluk,
Ramanagara District.

(By Sri.D.S.S., Advo., for proposed

D1 and proposed defendant No.2 is absent)

ORDERS ON I.A No.II

The learned counsel for the plaintiff has filed an I.A. No.II u/o 1 rule 10(2) of C.P.C seeking permit to implead the opponents as defendant No.2 and 3.

2. The plaintiff has filed sworn to an affidavit in support of I.A.No.II and stated that, the plaintiff has filed this suit for the relief of declaration and possession of the suit schedule property. In the year 2019 the plaintiff has received the notice from Executive Officer, Channapatna in Case No.15/2019-20. One Muttaiah S/o Venkataiah had sold the suit schedule property to the plaintiff. The said person filed a petition before Taluk Panchayath seeking a relief of cancel the Katha made out in favour of plaintiff. After considering the objection the Executive Officer allowed the petition and directed to proposed defendant No.2 to made out

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Katha in favour of proposed defendant No.1. On 24.01.1990 the plaintiff had purchased the suit schedule property from the proposed defendant No.1 and he is in possession and enjoyment over the suit schedule property. The defendant and proposed defendant No.1 are the relative they are belongs to one community. The proposed defendants are necessary parties to the suit. **Hence prayed that allow the I.A. No.II.**

3. The notice issued to proposed defendant No.2 was served. The proposed defendant No.2 is failed to appear before this court. After service of notice the proposed defendant No.1 is appeared before this court through his counsel. The proposed defendant No.1 has filed his objection and contended that, the application filed by the plaintiff is not maintainable under the law. This proposed defendant has filed an appeal before Executive Office, Taluk Panchayath, the same is allowed. Accordingly Katha made out in the name of plaintiff was canceled. This proposed defendant not sold the his property in favour of anybody. The plaintiff not in possession and enjoyment over the suit schedule property. The plaintiff has filed false application and false affidavit. **Hence prayed that dismiss the application with cost.**

4. The defendant has filed an objection to IA No.II and contended that application filed by the plaintiff is not maintainable under the law or facts the same is dismissed in limine. The

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plaintiff already examined as PW.1 and got marked 24 documents. Only fill up the Lacuna the plaintiff filed this false application. The proposed defendants are not necessary parties to the suit. The plaintiff has not filed any supporting documents. There is no transaction taken place between the plaintiff and proposed defendant No.1. The application filed by the plaintiff is not deserves to be allowed. **Hence prayed that dismiss the application with cost.**

5. Heard the arguments from learned counsel appearing for the plaintiff, defendant and proposed defendant No.1 and also perused the materials available on record.

6. Now the following points are arise for consideration of this court:-

POINTS

1. **Whether the proposed defendants are necessary parties to this suit for effective adjudication the matter in dispute?**
2. **What order?**
7. Findings of this court as answer the above points as follows:-

Point No.1 : In the Partly Affirmative

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

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REASONS

8. **POINT NO.1:-** The plaintiff has filed this suit against the defendant for the relief of declaration and recovery of possession over the suit schedule property. The case is posted for further cross-examination of PW.1, at this stage the plaintiff has filed the present application for implead the opponents as defendant No.2 and 3.

9. The suit of the plaintiff that, the plaintiff had purchased the suit schedule property from proposed defendant No.1 on 24.01.1990 and he is in possession and enjoyment over the suit schedule property. The defendant denied the contention of the plaintiff and taken defense that he had purchased the suit schedule property from proposed defendant No.1 on 15.05.1992 through sale deed and he is in possession and enjoyment over the suit schedule property. In this regard the proposed defendant No.1 is the necessary party to this suit.

10. The proposed defendant No.2 is the Panchayath Development Officer. The plaintiff has not issued the prior notice to the proposed defendant No.2 under Karnataka Panchayath Raj Act. More over, this proposed defendant is not necessary party to this suit. As per contention of the plaintiff the Executive Office of Taluk Panchayath has canceled the Katha made in the name of plaintiff. If any grievance the plaintiff may approach the Appellant

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authority of Taluk Panchayath. Hence, the proposed defendant No.2 is not a necessary party to this suit for effective adjudication of the matter in dispute. Hence the application filed by the plaintiff is deserves to be partly allowed. **Hence answer the point No.1 in the Partly Affirmative.**

11. Point No.2 :- In view of above discussion this court proceeds to pass the following :-

ORDER

I.A.No.II filed by the learned counsel for the plaintiff u/order-1 Rule-10(2) of C.P.C., is hereby partly allowed without cost.

The proposed defendant No.1 is impleaded as defendant No.2 in this suit.

In respect of proposed defendant No.2 this application is dismissed.

The plaintiff is directed to amend the cause title of the plaint and to furnish amended plaint.

(Dictated to the Stenographer and transcribed by her, Order corrected and signed by me, then pronounced by me in the Open Court on this the 16th day of June-2023).

Sd/-

Prl. Civil Judge & JMFC.,
Channapatna.



Order pronounced in open court

(Vide Separate Order sheet)

O R D E R

I.A.No.II filed by the learned counsel for the plaintiff u/order-1 Rule-10(2) of C.P.C., is hereby partly allowed without cost.

The proposed defendant No.1 is impleaded as defendant No.2 in this suit.

In respect of proposed defendant No.2 this application is dismissed.

The plaintiff is directed to amend the cause title of the plaint and to furnish amended plaint.

By 12.07.2023

Sd/-

Prl. Civil Judge & JMFC.,
Channapatna.