

IN THE COURT OF THE ADDL CIVIL JUDGE
AND J.M.F.C AT CHANNAPATNA

PRESENT: Smt. Namrata Rao.K.S

B.A.L, L.L.B., M.B.L

Addl., Civil Judge and J.M.F.C.
Channapatna.

Dated:This the 10th day of APRIL, 2018

O.S.No.70/2017

PLANTIFFS:

1. Smt. Sukanya
D/o Shivanna
Aged about 32 years
R/At. Kempegowdana Doddi
Kasaba Hobli
Ramanagara Taluk and District
2. Sri. Prashanth
S/o Malavaiah
Aged about 30 years,
3. Megana
S/o Malavegowda
Aged about 18 years,
Both are R/at. Rampura
KasabaHobli,

Channapatna Taluk,
Ramanagara District.

(By Sri. B.A.S, Advocate)

V/s

DEFENDANTS:

1. Sri. Shivanna
S/o Malavaiah
Aged about 59 years,
2. Smt. Manjula
W/o Late Malavaiah
Aged about 55 Years,
3. Sri. Malavegowda
S/o Late Malavaiah,
Aged about 52 years,
4. Sri. Chikkaiah
S/o Late Malavaiah,
Aged about 53 years.

All are R/At. Rampura,
Kasaba Hobli
Channapatna Taluk
Ramanagara District

(By Sri. B.G Advocate for D4 and D1 to
D3 are absent)

PARTIES TO I.A.

Applicant : Smt. Sukanya & Others
..... Plaintiff

-V/s-

OPPONENT : Sri. Shivanna & Others
.....Defendant

ORDERS ON I.A.

1. The present application is filed under Order 1 Rule 10 of C.P.C. by the plaintiff to implead the special LAO as a party to the suit.

2. The suit is for the relief of partition and separate possession of the suit schedule property. The contention of the applicant/plaintiff in the application is that, the suit schedule properties are acquired for the purpose of Bangalore- Mysore highway. Award amount is already decided, But the Spl LAO may

disperse with the amount. Hence prays for the impleadment of the Special LAO.

3. Notice on IA was served on proposed defendant who in turn has filed the statement of objections.

4. On the premise of the rival contentions, the following point arises for my consideration;

Whether the plaintiff shows that the proposed defendant is a necessary or proper party to enable the court to effectively and final adjudicate the matter?

5. My findings on the above point is in the ***Negative***, for the following;

REASONS

6. Points 1:- The present suit is for the partition and separate possession of the suit schedule property. The relationship is not in dispute. The crux of the application is that the

suit schedule property is acquired but the award amount is about to be dispersed. The rights of the parties is in question. This court has to examine whether the proposed defendant is necessary to adjudicate the question in controversy fully and finally or the proposed defendant is a proper party to adjudicate the matter on hand.

7. A necessary party under U/o 1 rule 10 (2) is a person who is necessary in order to enable the court effectually adjudicate the point and settle all the questions involved in the suit. In *Kasturi Vs IyyamPerumal reported in (2005) 6 SCC 733*, the Hon'ble Apex court held that the following two tests are to be looked into while determining the question whether a particular party is a necessary party to a proceeding i.e whether a relief is sought against the person and without his presence an effective decree cannot be passed. In a partition suit, the persons necessary are one whose presence are required for just and equitable partition of the family property. In the present application, LAO Ramanagara is sought to be made as a party to

the suit. The land is admittedly acquired and the compensation amount is awarded. Once the amount is awarded the land acquisition officer becomes functus officio. To divide the award amount among the members of the family, the presence of the LAO is not at all required. Further no relief is sought against the LAO.

8. The applicant contended that if the defendant draws the amount, the same will lead to multiplicity of the proceedings. For this reason LAO is to be made as a party. But fact that the defendant may draw the amount can not be a reason to implead LAO, Ramanagara. In view of the discussion above, I am of the opinion that proposed defendant is neither necessary nor a proper party to the above proceedings. Hence I answer the point No. 1 in the ***Negative*** and I proceed to pass the following;

ORDER

I.A. No.2 is dismissed with costs of Rs.500/-.

(Dictated to stenographer, transcribed by her, the transcript corrected by me and then pronounced in the open court on this the 10th day of April, 2018)

(Namrata Rao.K.S)

Addl., Civil Judge & J.M.F.C,
Channapatna.

(Order pronounced in the open court)

ORDER

I.A. No.2 is dismissed with
costs of Rs.500/-.

(Vide Separate order)

Addl., Civil Judge & J.M.F.C,
Channapatna.