

Orders on I.A. u/o 1 rule 10(2)

R/w Sec 151 of C.P.C

The counsel for applicant /Proposed Defendant No.4 to 6 has filed this application seeking to implead the applicant as defendant No.4 to 6 in this suit.

In support of the application, proposed defendant No.2 filed an affidavit on behalf of herself and other proposed defendants and stated that the plaintiff has filed this suit for declaration and permanent injunction against the defendants and further stated that originally the suit schedule property was purchased by her grandfather from one Chudegowda@ Puttaswamygowda on 09-10-1952, to an extent measuring 26 guntas through registered sale deed for the valuable Sale consideration and from the date of purchase grandfather of the proposed defendants was in possession and enjoyment of the suit schedule property later the father Shivaramu.B of the proposed defendants and uncle Siddegowda

father of 1st and 2nd defendants divided the property equally 13 guntas each. Further stated that from the date of katha till date they are in possession and enjoyment of the property but the plaintiff without any right title and interest suit schedule property. Therefore, the applicant/defendant No.4 to 6 are the necessary parties to the proceedings to protect his interest in the suit schedule property of the present suit. Hence, prays to allow the application and to contest the matter on merits and to avoid multiplicity of proceedings.

The Plaintiff has filed objection to the application. It is averred in the application that the plaintiff has filed

the present suit for declaration against the defendants. Further contended that the above proposed defendants have prepared the false affidavit along with false contention, there is no legality and having ambiguity, the entire contention of affidavit has controversy, because the defendant No.1 and 2 are sons to uncle of proposed defendants. The grand father of proposed had buy this suit schedule property from the deceased Choodegowda @ Puttaswamy gowda on 09.10.1952 by the paid of consideration, but which sale deed boundaries and suit schedule property boundaries are not tally each others and also the proposed defendants has not produced the mother deed belongs to deceased puttasswamygowda

because the who vendor of sale deed which has self acquired property of deceased Choodegowda @ Puttaswamygowda and then in old RTC the grandfather name has not mentioned since from date of purchased to till day. The plaintiff grand father name has perfectly mentioned in old RTC till 2002. After the plaintiff name has stand in the RTC and mutation since from 7-8 year this real fact has disclose through the field of this suit. According to legal aspect, when the property has purchased from anybody the revenue process should be disposal within 45 days from date of purchased but during the life time decease Bolegowda he has not try to change revenue documents for name in his life time to

tilld dated 12.01.1991, this showing the deceased Bolegowda has not locus stand on this suit schedule property.

The plaintiff further submitted that the proposed defendants has not produced the registered panchayath parikath, that is also vague and then in year of 1988-89 who are father of proposed defendants and uncle of and father of defendant No.1 and 2 name has mentioned, but there is no right of property has not mentioned in that year and after one year, there name has been deleted, this showing the purchased of that property by the grandfather some having legal defect and there is no property identified where there in territorial of property in Mankunda Village, the grandfather of

plaintiff name has continuously mentioned since from 1968, this is showing suit schedule property is purely ancestral property belongs to grand father of plaintiff either directly or indirectly the proposed have not any locus stands to be contesting as proposed defendant in this suit. The question of opportunity to contest in this case is not arise. Because the propose defendants has not effective title to plaintiff boundaries of suit schedule property. Moreover, there is no any legal sanctity that application itself is not maintainable they have filed this application application towards the drag on of proceeding. There is perfect RTC mutation other revenue documents and there is no any tax paid receipt. There is main

defect to say there name absolute owner ship on this suit schedule, the proposed defendants has furnishing the documents of RTC of one year and adhar card and death certificate of grandfather and father, which are irrelevant immaterial documents. These are not revenue documents of possession in respect of suit schedule property. Hence, prays to reject the application.

After considering the facts and circumstances of the case prima facie shows that the applicant/defendant No.4 to 6 are the necessary parties to the suit without whom the decree cannot be effectively implemented.

In view of the above reasons, I proceed to pass the following:

ORDER

The Application filed by the Proposed defendants u/o.1 rule 10(2) of C.P.C. is hereby allowed.

The counsel for plaintiff is directed to amend the plaint and furnish amended plaint.

Call on for amendment
on: 13.10.2022.

Addl. Civil Judge and JMFC,
Channapatna