

ORDERS ON I.A. NO.8

This is an application filed by the applicant/plaintiff Under Order I Rule 10(2) R/w Section 151 of CPC with a prayer to implead the proposed plaintiffs in this suit as plaintiff Nos.2 and 3.

The learned counsel for the defendants has filed detailed objections to the present application. Wherein the defendants contented that the present application is not maintainable at this stage as the proposed plaintiffs have already filed a suit under O.S. No.118/2021 before the Hon'ble Senior Civil Judge and JMFC court for partition and the same is pending for consideration. As such the proposed plaintiffs are not necessary parties to the present suit. The plaintiff only with an intention to prolong the case proceedings has come up with this application. As such the present application is not maintainable at this stage and liable to be dismissed.

Heard the learned counsels for the plaintiff and defendants on IA.No.8 and perused the records available on file.

It is pertinent to note that, the plaintiff has filed the present suit against the defendants for partition and separate possession in respect of suit schedule property. It is the contention of the applicant/plaintiff that the proposed plaintiffs are the family members of the plaintiff as they are the sisters of defendant No.2 as such they are also necessary parties to the suit for better adjudication of the matter. Further it is pertinent to note that, the burden is upon the applicant/plaintiff to prove their relationship with the proposed plaintiffs. It is well settled recognized law that in a suit for partition that, all the family members shall be included in the suit for better adjudication of the subject matter. If the present application is allowed no harm or injustice will be caused to the defendants as they will get every opportunities to deny their relationship with the proposed plaintiffs. By considering the nature of the suit, facts and circumstances of case and to curtail the multiplicity proceedings, this court is of the opinion that, proposed plaintiffs are necessary parties to the present suit for better adjudication of the subject matter. Hence, I proceed to pass the following:

ORDER

I.A No.8 filed by the applicant/plaintiff Under Order I Rule 10(2) R/w Section 151 of CPC is hereby allowed on cost of Rs.200/-.

The proposed plaintiffs are brought on record as plaintiff Nos.2 and 3 in the present suit as sought for.

The plaintiff shall amend the plaint and furnish amended plaint.

Call on 25-01-2025.

Sd/-

Addl. Civil Judge & JMFC,
Kanakapura.