



**Interlocutory Application No.7**

Plaintiff/ : Smt. Thimmamma  
Applicant  
(By Sri. G.P., Adv.)

**-Vs-**

Defendants/ : Sri. Muniraju and others  
Opponent  
(D.1 Sri. M.G., Adv.)  
(D.2 & 3 Sri. A.D.B., Adv.)

1	Provision under which the application is filed	:	Under Order 1 Rule 10(2) r/w Sec.151 of C.P.C.
2	Relief Sought for	:	To implead the proposed defendant
3	The date on which the application is filed	:	18.12.2023
4	Number of the application	:	One
5	The date on which the objection is filed by different opponents	:	30.01.2024
6	The date on which the common orders were passed on the said application	:	10.11.2025

**Sd/-**  
**(Lathashree B.V.)**  
I Addl. Civil Judge & JMFC,  
Kanakapura.

**ORDERS ON INTERLOCUTORY APPLICATION No.7**  
**UNDER ORDER 1 RULE 10(2) R/W SEC.151 OF C.P.C.**  
**FILED BY THE APPLICANT/PLAINTIFF IN THE**  
**PRESENT MATTER**

The plaintiff/applicant has filed application under Order 1 Rule 10(2) r/w Sec.151 of CPC praying this court to implead the proposed defendant as defendant No.4 in the suit in the interest of justice and equity.

2. The application is accompanied with an affidavit duly sworn by the applicant and in over all it is submitted by the applicant/plaintiff that, Smt.Gowramma is the necessary party to the suit who is the wife of defendant No.1. Hence, the defendant No.1 has illegally transferred the katha of suit schedule property in favour of Smt. Gowramma in order to grab the ancestral property and to knock of the share of plaintiffs. After the death of her father namely late.Kempaiah who is the original propositus of the family but the defendants colluding with the revenue officials and by misrepresenting the facts has got changed the katha of the suit schedule property to defendant's name without the knowledge and consent of the other coparceners. Hence, Smt.Gowramma is to be made as party to the suit. Hence, prays to allow the application.

3. The proposed defendant No.4 after due service of notice has appeared before the court through her counsel and filed objection by submitting that, the application is

not maintainable and she is not a necessary party to the suit and that there is no document of proof with respect to the allegations made by the plaintiff in the affidavit and that the matter is of the year 2009 and only to drag on the matter they have filed the present application.

4. Further, the defendant No.2 and 3 have filed objection stating that the application filed by the plaintiff is not maintainable under law as well as facts of the case. Further submitted that, the proposed defendant No.4 is already on record as defendant No.2 in O.S No.118/2022 before Hon'ble Senior Civil Judge and JMFC Court filed by Smt.Devamma and Smt.Parvathamma for the relief of partition and separate possession of suit schedule property and the suit property in the present case as one of the property in O.S No.118/2022 and goes to submit that she is not a proper or necessary party to the present suit. Hence, prays to dismiss the application.

5. Heard both the sides.

6. The following points arise for this court consideration:

1. Whether the application filed by the applicant under Order 1 Rule 10(2) R/w Sec.151 of C.P.C. is deserves to be allowed?

2. What Order?

7. The answers to the above points are as under:

Point No.1: In the Negative;  
Point No.2: As per final order  
for the following:

### **REASONS**

8. **Point No.1:** The present suit is filed by the plaintiff seeking for the relief of partition and separate possession with respect to one suit schedule property against defendant No.1 to 3. Now on perusal of the order sheet the stage was set down for further chief of DW.1 and at that point of time the application is filed by the plaintiff. It is the contention of the plaintiff that, the defendant No.2 who is the husband of proposed defendant No.4 has changed the katha of the suit schedule property by colluding with revenue officials in the name of his wife. Hence, she becomes necessary party.

9. However, on perusal of the materials on record as furnished by the plaintiff herself and as rightly contended by opponent in the objection there are no substantial materials in support of the present contentions by the plaintiff and the RTC records before the court filed by the

plaintiff does not reflect the name of the opponent by name Gowramma rather it shows a name of one Puttamma and admittedly it is to be noted that, the defendant No.2 is already on record. Hence, when there is no substantial materials before the court merely on the said application it cannot be ascertained or considered that, the said opponent becomes necessary party and as to on what grounds the said opponent falls under the ambit of necessary party is also not explained by the plaintiff. When such being the case, this court is of the opinion that, the same cannot be considered. Hence, with the said observation it could be stated that, the said plaintiff has not made out sufficient grounds to consider the present application. Hence, the same does not deserves to be allowed. Accordingly, this court has answered the **Point No.1 in the “Negative”**.

10. **Point No.2:** In view of above made observations on Point No.1, this court proceeds to pass the following:

**ORDER**

The Interlocutory Application No.7 under Order 1 Rule 10(2) r/w Sec.151 of C.P.C. filed by the plaintiff is hereby rejected.

No order as to costs.

(Directly dictated to the Stenographer on computer, corrected, signed and then pronounced by me in the Open Court on 10<sup>th</sup> day of November 2025)

**Sd/-**

**(Lathashree B.V.)**

I Addl., Civil Judge & JMFC,  
Kanakapura.