

**ORDERS ON I.A.NO.7**

The applicant/plaintiff has filed I.A.No.7 Under Order I Rule 10(2) R/w Section 151 of CPC, seeking to implead the proposed defendants as defendant No.4 and 5 in this suit.

2. The learned counsel for the defendant No.1 has opposed to the present application by filing detailed objections. In the objections, the defendant No.1 contended that the present application is not maintainable as the plaintiff has not assigned any valid reasons to bring them on record as defendant Nos.4 and 5. The plaintiff only with an intention to drag on the case proceedings has filed this false and frivolous application. As such the present application is not maintainable at this stage. On these grounds the defendant No.1 prayed to dismiss the application.

3. The present application is supported with the affidavit of GPA holder of the plaintiff viz Doddaveeregowda wherein he deposed that during the pendency of the suit the proposed defendants by colluding with the defendant

Nos.1 to 3 have tried to interfere into the peaceful possession and enjoyment of the plaintiff on the suit schedule property. As such in order to stop them from such illegal activities, the proposed defendants have to be bring on record for proper adjudication. On these grounds the applicant/plaintiff prayed to allow the present application.

4. It is pertinent to note that, in order to implead any person in a suit, he has to satisfy that they are either a necessary party or a proper party to the suit. Keeping in view this principle of law, it is now necessary to consider whether the applicant has made out that the proposed defendants are either necessary or proper party to this suit. The plaintiff has filed this suit against the defendants seeking the relief of permanent injunction. When the case was posted for further plaintiff's evidence, the applicant came up with this application. It is the contention of the plaintiff that the proposed defendants have tried to interfere into her peaceful possession. But the plaintiff has not mentioned the specific date on which the proposed defendants were tried to interfere into her possession.

More over in the present case on hand, the plaintiff has adduced the evidence proposed defendant No.5 from her side as a witness in support of her case. But later the reasons best known to the plaintiff that she herself has discarded the evidence of the said witness/PW2/proposed defendant No.5 as per order dated 04-02-2025. After such an order being passed, the plaintiff has come up with this application. This itself is clearly go to show that the plaintiff by taking the reason of non-attending the court for cross examination by the proposed defendant No.5/PW2 has filed this application only in order to take revenge for not supporting her in this case. The ambit of Order I rule 10 of CPC is to be looked into, the said provision is not made for taking revenge against those persons who refused to support the parties to prove their case or defense. It is well settled principle of law that in a suit, the parties to the suit should be the persons, against whom the cause of action arises, it is for the plaintiff choice to implead those persons as defendants against whom he wishes to take such relief. Admittedly the cause of action is not arisen against the

proposed defendants. As such the proposed defendants are neither a necessary or a proper party to be impleaded in this suit. Further in the absence of the proposed defendants an effective decree can be passed in the suit. If at all the proposed defendants are obstructing the plaintiff, then she has every right to file an another suit against them for seeking permanent injunction. With this I proceed to pass the following:

**ORDER**

**I.A. No.7 filed Under Order 1 Rule 10(2) R/w Section 151 of CPC by the plaintiff is hereby dismissed.**

**ORDERS ON I.A. NO.9**

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 defendants in this suit as defendant Nos.6 to 8.

The learned counsel for the defendant No.1 has opposed to the present application by filing detailed objections. In the objections, the defendant No.1 contended that the present

application is not maintainable as the plaintiff has not assigned any valid reasons to bring them on record as defendant Nos.4 and 5. The plaintiff only with an intention to drag on the case proceedings has filed this false and frivolous application. As such the present application is not maintainable at this stage. On these grounds the defendant No.1 prayed to dismiss the application.

Heard and perused the records available on file.

It is pertinent to note that, the plaintiff has filed the present suit against the defendants for permanent injunction in respect of suit schedule property. It is the contention of the applicant/plaintiff that during the course of case proceedings the proposed defendants have encroached the land and constructed permanent building/structure on the portion of the suit schedule property. Hence in order to recover the said encroached area in the suit schedule property, the proposed defendants are necessary parties to the present suit for better adjudication. Further it is pertinent to note that, the burden is upon the applicant/plaintiff to prove the

said encroachment by the proposed defendants. It is well settled recognized law that in a civil suit all the necessary parties shall be brought on record for better adjudication of the subject matter. If the present application is allowed no harm or injustice will be caused to the defendants or proposed defendant. 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 defendants 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.9 filed by the applicant/plaintiff Under Order I Rule 10(2) R/w Section 151 of CPC is hereby allowed on cost of Rs.300/-.

The proposed defendants are brought on record as defendant Nos.4 to 6 in the present suit.

The plaintiff shall amend the plaint as per order passed on I.A.No.9 and furnish amended plaint.

Call on 23-02-2026.

**Sd/-  
Prl., Civil Judge & JMFC,  
Kanakapura.**