

**ORDER ON I.A No.II**

The plaintiff filed this application to implead the proposed applicants as defendant No.15 to 17.

2. In the affidavit contended that, the plaintiffs filed the suit against the defendants for partition and separate possession with respect to the schedule properties. The during the pendency of the suit the defendant No.1 to 13

have colluded with each other and sold the schedule properties in favour of defendant No.14 without knowledge of the plaintiff. Again the defendant No.14 sold the property in favour of defendant No.15 to 17 behind the back of the plaintiff to deprive the right of the plaintiff over the schedule property and said sale deeds are not binding on the plaintiff. Hence, it is necessary to allow the application.

3. On the other hand, the proposed defendant No.15 to 17 appeared to through counsel and filed objection and denied the contents of the affidavit and specifically contended that, the defendant No.1 to 13 have sold the property in favour of the defendant No.14 on 19.06.2002 through registered sale deed. The defendant No.14 sold the schedule property to these defendants through registered sale deed. Hence, the plaintiffs have no locus standi to file the suit. Further the defendant coated the provisions of Sec. 6 of the Hindu Succession Act and also coated the decision reported in ILR 2007 Karnataka 4790

and prays to reject the application. The defendant did not furnished the said decision.

4. Heard counsel for plaintiff. The defendant counsel did not appeared for hearing even after giving sufficient opportunity. Hence, hearing by defendant side taken as nil.

5. After going through the material available on record, the plaintiff filed the suit for partition and separate possession in respect of the suit schedule property in the year 2014. the present plaintiff filed this application on 03.06.2014 itself and also the proposed defendants filed objection on 16.10.2014 but both side counsel did not submitted about the pendency of present application. On 20.01.2024 the advocate for plaintiff brought to the notice about the pendency of the present application.

The plaintiff contended that the defendant No.1 to 13 colluded with each other sold the properties in favour

of defendant No.14 and inturn the defendant No.14 sold the property to the proposed defendant No.15 to 17. As per the records the plaintiff pleaded that the schedule properties are the ancestral undivided joint family properties. Hence, the alleged sale deeds are not binding the plaintiff and the proposed defendant No.15 to 17 are the necessary parties to the suit. On the other hand the defendant filed objection and contended that in the year 2002 the defendant No.1 to 13 have sold the property to the defendant No.14 and the sale deed becomes final. The defendant further contended that the plaintiff has no locus standi to file the suit. The plaintiff in the application contended that the defendant No.15 to 17 have purchased the properties through sale deeds. But in respect of which property on which date executed the sale deed nothing has been stated and also did not furnished the documents in that regard. Hence, under such circumstance this court is of the opinion that, the plaintiff did not placed material document to show that

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the sale deeds have been taken place the during the pendency of the suit in favour of the defendant No.15 to 17 in respect of suit schedule properties and they are the necessary parties to the suit. Hence, this court proceed to pass the following:

**ORDER**

I.A No.II filed by the plaintiff  
U/o 1 Rule 10(2) r/w Sec.151 of  
CPC is hereby rejected.

Call on for P/E finally,  
20.04.2024

**(SURESH ANNAPPA SAVADI)**  
Prl. Civil Judge & JMFC.,  
Kanakapura.