

IN THE COURT OF PRL. CIVIL JUDGE & JMFC AT KANAKAPURA

PRESENT

**SRI. HANUMANTHA G.H.
B.A.L., LL.M.**

Prl. Civil Judge & JMFC, Kanakapura.

F.D.P No. 16/2011

DATED THIS 15th DAY OF OCTOBER 2019

Petitioners :

1. Sri. Shivanankaraiah @ Dinesha
S/o Shivanna
Aged about 28 years
R/at Gowdanahalli village
Kasaba Hobli
Kanakapura Taluk
Ramanagara District and another.

(By Sri. C.S.Narayana, Advocate)

-V/S-

Respondents:

1. Sri. Eregowda
S/o late Papegowda
Aged about 50 years
R/at Gowdanahalli village
Kasaba Hobli
Kanakapura Taluk
Ramanagara District and others

(By Sri.R. Mahesh Chandra Guru, Advocate)

PARTIES IN I.A.NO.I

**Applicant/
Proposed respondent**

: Sri. K.M.Shanthappa
S/o late Muniyellappa
Aged about 47 years
R/at No.371/1

Kodichikkanahalli
Bilekahalli Post
Bangalore 560 076.

(By Sri. S.Santhosh Shetty, Advocate)

-V/S-

Opponents/Petitioners : Sri. Shivanankaraiah @ Dinesha
and another.

ORDER ON I.A.NO.I

This is I.A.No.I filed under Order I Rule 10 (2) R/w Sec.151 CPC on behalf of the proposed respondent to implead him as the respondent No.6.

2. It is stated in an affidavit of IA No.I that Sy.No.57 of Mavathuru Village, Kanakapura Taluk measures 2 acres 34 guntas and it originally belonged to one Smt. Channamma W/o Papegowda. She sold an extent of 25 guntas out of the said 2 acres 34 guntas to one A.C.Ramachandraiah on 29-08-1997. The said Ramachandraiah sold the said extent to one C.Shamanna on 04-01-2000. The said Shamanna and his son Sandeep Sagar sold the said property to the proposed respondent herein on 03-05-2010. The revenue documents of the said property are in the name of the proposed respondent. The said property now bears Sy.No.57/2. It is further stated that the proposed respondent purchased the remaining extent of 2 acres 9 guntas in Sy.No.57 from the petitioners herein and others on 19-05-2011. The revenue records of the said property are also in the name of the proposed respondent. The said property now bears Sy.No.57/1.

It is also stated that the proposed respondent has noticed about the institution of suit in O.S.No.122/1995 and the present petition when the court officials have come to the said property to execute the commissioner work. The said property is the item No.6 of the suit and petition schedule properties. Though it belongs to the proposed respondent, the petitioners have included it in the petition. Therefore, the presence of the proposed respondent is necessary to the case to protect his right over the said property. Accordingly, he has prayed to allow I.A.

3. Learned counsel for the petitioners has filed objection denying the contents of I.A. He has contended that I.A is filed at belated stage to drag on the proceedings. The sale transaction alleged took place after passing of the Judgment and Decree. The said transaction does not bind the petitioners. The proposed respondent could have filed separate proceedings instead of filing I.A. Accordingly, he has prayed to dismiss I.A with costs.

4. Heard on both sides and perused the materials on record. Learned counsel for the proposed respondent has filed written arguments in support of I.A.No.I and stated similar contents of I.A.No.I.

5. The petitioners have filed the petition for F.D.P on the basis of preliminary decree passed in O.S.No.122/1995. The documents of sale deeds dated 29-08-1997, 14-01-2001, 03-05-2010 and 19-05-2011 produced by the proposed respondent support the contents of I.A mentioned above. The documents of RTCs of Sy.No.57/1 and 57/2 placed by the proposed respondent show that those 2 properties stand in the name of him. The above documents supports the case of the proposed respondent as

stated in I.A. An item No.6 of the petition schedule properties bears Sy.No.57 measuring 2 acres 34 guntas. The same extent is divided under 2 survey numbers i.e., Sy.No.57/1 measuring 2 acres 9 guntas and Sy.No.57/2 measuring 25 guntas. Thus, the item No.6 of the petition schedule properties is found to be stood in the name of the proposed respondent. Hence, the presence of him is necessary to adjudicate the dispute pertaining to the item No.6 of the petition schedule properties. Thus, I am of the opinion that, IA No.1 deserves to be allowed and accordingly, it is allowed with the following;

:: O R D E R ::

I.A.No.1 filed under Order I Rule 10 (2)
R/w Sec.151 of C.P.C on behalf of the
proposed respondent is hereby allowed.

The proposed respondent is made as
the respondent No.6 as prayed in
I.A.No.1.

The petitioners are directed to amend
the petition and to furnish amended
petition forthwith.

(Dictated to the Stenographer, transcribed by her, corrected by me
and then pronounced in the Open Court in this 15th day of October 2019.)

(HANUMANTHA G.H.)
Prl. Civil Judge & JMFC.
Kanakapura.