

ORDERS ON I.A.No.II

The plaintiff filed I.A.No.II U/O 1 Rule 10 R/w 151 of CPC to implead the proposed defendant No.3 in the suit.

2. In the affidavit contended that, the plaintiff filed this suit for partition and separate possession, the proposed defendant being a paternal aunt of the plaintiff and in order to deprive the right over the suit schedule item No.4 of the proposed defendant and present defendants have colluded with each other and concocted illegal partition deed and got changed the katha in the name of proposed defendant, Hence, she is necessary party to the suit. Hence, prays to allow the application.

3. On the other hand, the proposed defendant No.3 filed objection, and denying the contents of the affidavit, only to drag on the proceedings filed this application. The proposed defendant No.3 specifically contended that, the defendant No.1 in the present suit i.e. Sri.Muniyappa and proposed defendant No.3 Smt.Chikkamuniyamma are the children of Sri.Mariyappa and Smt.Madamma. The Mariyappa and his children have constituted Hindu Undivided Joint Family governed by Mithakshara. Both the children of Sri.Mariyappa have got equal

right, title, interest, share and possession over the suit schedule properties, taking advantage of the fact that the katha of the suit schedule properties standing in the name of first defendant. In spite of request and demand of the proposed defendant No.3 and first defendant not partitioned the suit schedule properties. Hence, the proposed defendant No.3 filed a suit in O.S.No.88/2018 before Sr. Civil Judge, Kanakapura, the said suit ended in compromise on 23.04.2018. The plaintiff at liberty to claim her share in the properties allotted to the share of the defendant No.1 in O.S.No.88/2018. And also contended the other facts of the case and prays to reject the application.

4. Heard the both sides

5. After going the material available on record, the plaintiff filed this application to implead the proposed defendant No.3 who is the paternal aunt of the plaintiff and created the concocted partition deed and on the strength of the same got changed the katha in respect of suit schedule item No.4. The plaintiff furnished the copy of the partition deed and also furnished the records of right where in the name of the proposed defendant No.3 name is appearing in the record of rights. Hence, under such circumstance at this stage this being a

suit for partition the proposed defendant No.3 become the necessary party to the suit. Hence, to avoid the multiplicity proceedings and also in the interest of justice it is necessary to allow the application. Hence, this Court proceed to pass the following;

ORDER

The I.A.No.II filed by the plaintiff U/O I Rule 10 R/w 151 of CPC is hereby allowed.

The plaintiff is directed to amend the plaint and furnish the amended plaint copy.

Call on 23.09.2023

Sd/-
Prl. Civil Judge and JMFC,
Kanakapura.