



**IN THE COURT OF THE ADDL. SENIOR CIVIL JUDGE & J.M.F.C.,
AT: MAGADI.**

Present:

Sri. Sandeep S. Reddy, B.A., LL.B.,
Addl. Sr. Civil Judge & JMFC., Magadi.

DATED: THIS THE 10th DAY OF JUNE, 2024
O.S.No.98/2015

Plaintiff : Sri. Dasharatha Rao

(By **Sri. S.G.R.** Advocate)

--V/s--

Defendants : Sri. Sulthan Rao Sindhya

(D1, 4 & 5 by **Sri. B.K.M.** Advocate)

(D2 & 3 by **Sri. R.S.** Advocate)

(D6 **Exparte**)

(D7 to 9 **Absent**)

ORDER ON IA NO.6 & 7 U/O.I R.10(2) of C.P.C.,

The I.A.No.6 is filed by Smt. Rukmini Bai and five others praying to get themselves impleaded as plaintiff No.2 to 7 in the aforesaid suit.

2. The I.A.No.7 is filed by Smt. Yashoda Bai and two others praying to get themselves as impleaded as defendant No.7 to 9.

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3. In the accompanying affidavit to I.A.No.6 the impleading applicants state that, the proposed plaintiff No.2 to 4 are the children of Smt. Saroja Bai. That, the proposed plaintiff No.6 & 7 are the sisters of proposed plaintiff No.4. That, the proposed impleading applicants are not made as parties to the aforesaid suit by the plaintiffs and hence they are also entitled for the share in the suit schedule properties and they are also entitled to come as plaintiffs in the aforesaid suit. Hence, they have filed the aforesaid application as prayed for.

4. In the accompanying affidavit to I.A.No.7 the impleading applicant state that, one Sri. Konduji Rao and proposed defendants along with defendant No.1 to 5s' father Gundoji Rao had purchased the schedule properties jointly. Out of the said properties purchased, some properties were jointly sold by the father of the applicants and defendant No.1 to 5 and Sri. Gunduoi Roa. That, the schedule properties are not partitioned till date. That, the aforesaid suit was filed seeking for the relief of partition. That, the proposed defendants are the necessary parties to the

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aforesaid suit and hence the applicant/plaintiff prays for allowing the aforesaid application.

5. The defendant No.1 has filed objections to the aforesaid I.A., filed by impleading applicants. That, the aforesaid application is filed at the stage of cross-examination of PW-1. That, the impleading applicant has no locus standi to file the aforesaid application. That, the applicant has to file a separate suit before the competent court. That, the aforesaid application is frivolous and cannot be allowed. Hence, the defendant No.1 has prayed to dismissing the aforesaid application.

6. Heard learned advocate for applicant and defendant No.1.

7. Considering the contentions of the parties, following points arise for my consideration.

1. Whether the impleading applicants have made out a case to come on record as necessary parties in the aforesaid suit as mentioned in I.A.No.6?

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2. Whether the impleading applicants have made out a case to come on record as necessary parties in the aforesaid suit as mentioned in I.A.No.7?
 3. What order?
8. My findings for the above points are as under.
- | | | |
|------------|---|--------------------|
| Point No.1 | : | In the Affirmative |
| Point No.2 | : | In the Negative |
| Point No.3 | : | As per final order |
- For the following,
- REASONS**
9. **Point No.1**:- The impleading applicants in I.A.No.6 state that, they are the proper and necessary parties to the aforesaid suit for partition. That, they are also entitled for the relief of partition.
10. The defendants have filed objections to I.A.No.6 & 7. The defendant No.1 and plaintiff have not disputed the relationship of impleading applicants as per I.A.No.6. There is no proper objection that has been filed disputing the averments in affidavit to I.A.No.6. Hence, I.A.No.6 is uncontested. There is nothing on record to dispute the

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correctness of the contentions raised by impleading applicants in I.A.No.6. Hence, I answer Point No.1 in the Affirmative.

11. **Point No.2:-** The impleading applicants in I.A.No.7 state that, one Sri. Konduji Rao and proposed defendants along with defendant No.1 to 5s' father Gundoji Rao had purchased the schedule properties jointly. Out of the said properties purchased, some properties were jointly sold by the father of the applicants and defendant No.1 to 5 and Sri. Gunduji Roa. That, the schedule properties are not partitioned till date. The impleading applicants have further stated that, they are also entitled for the relief of partition in the aforesaid suit.

12. The plaintiffs have not filed the objection. It is the defendant No.1 who has filed the objections. The defendant No.1 has stated that, the present application has been filed by the person who has no locus standi to file the present application. That, the application is filed is false and frivolous. That, the applicants has filed the application only to counter the defence taken by the defendant during cross-examination.

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13. Admittedly, the aforesaid suit is for partition. The plaintiff has sought for half share in the suit schedule property. The plaintiff has produced the documents Ex.P1 to P14. The DW-1 & 2 are also examined in the aforesaid suit. Ex.D1 to Ex.D31 are marked in the aforesaid suit. Admittedly, there is no document on record to substantiate the claim of the impleading applicant to show that, impleading applicant has substantive right in the suit schedule property and they are also entitled for the share in the schedule properties as claimed in the accompanying affidavit. The proposed impleading applicant has not produced any document to show the prima-facie case. No document is produced to substantiate the claim of the proposed defendants as stated in accompanying affidavit to I.A.No.7. Since there is no documents to substantiate the claim of the impleading applicants and since there is relationship of plaintiff and impleading applicants with respect to the suit schedule properties, the present application filed by impleading applicants cannot be allowed. Hence, I answer point No.2 in the Negative.

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14. **Point No.3**:- In view of reasons on point no.1 & 2, and in the interest of Justice and equity, I proceed to pass the following,

ORDER

IA No.6 filed U/o. I Rule 10 (2) R/w. Sec.151 of CPC by impleading applicants praying to implead themselves as defendant No.2 to 7 in the aforesaid suit is hereby allowed and Smt. Rukmini Bai, Latha Bai, Usha Bai, Venko Bai, Gowru Bai and Tara Bai are hereby arrayed as defendant No.2 to 7.

The I.A.No.7 filed U/O.I R.10 of C.P.C., by Smt. Yashoda Bai, Smt. Uma Bai, Smt. Rathna Bai is hereby rejected.

The plaintiff is hereby directed to carryout amendment to the plaint.

The parties to bear their respective costs.

Call on 27.06.2024.

(Dictated to the Typist directly on the computer, typed by her, corrected by me and then pronounced in the open court on this the **10th day of June, 2024.**)

(Sandeep S. Reddy)
Addl. Sr. Civil Judge & JMFC.,
Magadi.