

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

Present:

Sri. Hanumanth Satwik.,^{LL.M.}
Addl. Sr. Civil Judge & JMFC., Magadi.

DATED: THIS THE 11th DAY OF JANUARY, 2023

F.D.P.No.2/2015

- Petitioners** : 1. Sri. Muniyappa,
S/o. Late. Muniyappa,
Aged about 60 years,
2. Sri. Muniraju,
S/o. Late. Muniyappa,
Aged about 58 years,
3. Sri. Somashekar,
S/o. Late. Kempaiah,
Aged about 34 years,
4. Smt. Muniyamma,
W/o. Lakshmanna,
D/o. Late. Muniyappa,
Aged about 62 years,
5. Smt. Siddamma,
W/o. Late. Muniyappa,
Aged about 88 years,

All are R/at: Kethohalli,
Tavarekere Hobli,
Bangalore South Taluk.

(By **Sri. M.K.S.** Advocate)

V/s

- Respondents** : 1. Sri. Doddarangaiah,
S/o. Late. Muniyappa,

Aged about 64 years,
Since dead by his L.Rs.,

(a) Sri. D. Nagaraj,
S/o. Doddarangaiah,
Aged about 29 years,

(b) Sri. D. Muniyappa,
S/o. Doddarangaiah,
Aged about 26 years,

(c) Smt. Muniyamma,
D/o. Late. Doddarangaiah,
W/o. Muthuraj,
Aged about 30 years,
R/at: Hunigeri Village,
Tavarekere Hobli,
Chunchanaguppe Post,
Bangalore South Taluk.

2. Sri. D. Nagaraj,
S/o. Doddarangaiah,
Aged about 29 years,

3. Sri. D. Muniyappa,
S/o. Doddarangaiah,
Aged about 26 years,

R1(a & b), 2 & 3 are R/at:
Kethohalli,
Tavarekere Hobli,
Bangalore South Taluk.

4. Sri. G. Venkatesh,
S/o. Giryappa,
Aged about 48 years,
R/at: Peddanahalli Village,
Tavarekere Hobli,
Bangalore South Taluk.

{ R1(c), 3 & 4 **Exparte** }
{ R2 **Dismissed** }

ORDER ON IA NO.5

The present petition is for drawing final decree.

2. The present application has been filed by the applicant praying this court to implead him as respondent in the present petition. The applicant he purchased submits that the applicants are the children of Lakshminarsamma, the sister of K. Gowraiah @ Chikkakadaraiah. The plaintiffs are the children of 1st and 2nd wife of K. Gowraiah. Applicant no.5 to 9 are the children of her brother. Defendant no.1 & 2 are the children of the brother of her grand-father by name Koli Kadaraiah @ Kadaraiah. The suit schedule property are the ancestral property. They are also entitled for share in the suit schedule property. In this regard, the applicants pray as above.

3. The plaintiffs in their objections contended that the proposed defendants are not connected to the suit schedule property and to them. As per the genealogical tree produced by the plaintiff, the proposed defendants are not concerned to the suit schedule property. The suit schedule property originally belongs to Motaiah, K. Gowraiah and

Maranarasaiah. Plaintiff no.1 to 5 are the wife and children of Chikkakadaraiah and plaintiff no.6 & 7 are the son and grand-daughter of Narasaiah @ Maranarasaiah. The proposed defendants are the children and grand-children of Lakshminarasamma, who is the daughter of Kolikadaraiah. The suit schedule property was jointly granted in the name of Motaiah, K. Gowraiah and Maranarasaiah. In this regard, the plaintiffs pray to reject the application.

4. Heard counsel for proposed defendants and the plaintiffs. In spite of giving sufficient opportunity to the defendants to address arguments, they failed and hence the arguments of defendants was taken as nil.

5. Considering the case of the applicants, following points arise for my consideration.

1. Whether the applicants show that they are necessary parties to be impleaded as defendants in the present suit?
2. What order?

6. My findings for the above points are as under.

Point No.1	:	In the affirmative
Point No.2	:	As per final order

For the following;

REASONS

7. **Point No.1:-** It is the case of the applicants that they are the children of Lakshminarasamma the sister of K. Gowraiah @ Chikkakadaraiah. The said Lakshminarasamma is the daughter of Koli Kadaraiah. The suit schedule property is their ancestral property. In this regard, the plaintiffs in their objections admitted that the proposed defendants are the children and grand-children of Lakshminarasamma who is the daughter of Koli Kadaraiah.

8. In the case at hand, the plaintiffs contended that the suit schedule property was jointly granted in the name of Motaiah, K. Gowraiah and Maranarasaiah. Be it stated, in the present case, it is not in dispute that the proposed defendants are the children and grand-children of Lakshminarasamma who is the daughter of Koli Kadaraiah. This being the case, I am of the view that the above said contention of the plaintiffs is the subject matter of trial.

9. Be it stated, the present suit is one for partition and separate possession. It is the case of the applicants that the suit schedule property is their ancestral property. Be it noted, in the present case, it is

not in dispute that the proposed defendants are the children and grandchildren of Lakshminarasamma who is the daughter of Koli Kadaraiah. This being the case, it is necessary to determine whether the suit schedule property is the joint and ancestral property of the plaintiffs and the applicants. Further, it is necessary to determine the shares to which the applicants are entitled for. Such being the case, having regard to the issues that are required to be answered in the present suit, I am of the view that it is necessary that the applicants be made as parties to the present suit to decide the questions involved in it. In these circumstances, considering the application and the pleadings, I am of the view that the applicants showed that they are necessary parties to be impleaded as defendants in the present suit. As such, the applicants have made out sufficient grounds to implead them as defendants in the present suit. Consequently, point No.1 is answered in the affirmative.

10. **Point No.2**:- in view of reasons on point no.1, I proceed to pass the following:

ORDER

**IA No.5 filed U/o. I Rule 10(2) of CPC filed by
the applicants is hereby allowed.**

The plaintiffs are hereby directed to carryout amendment to the plaint adding applicants as defendants in the suit.

The parties to bear their respective costs.

(Dictated to the Typist directly on the computer, typed by her, corrected by me and then pronounced in the open court on this the **11th day of January, 2023.**)

**(Hanumanth Satwik)
Addl. Sr. Civil Judge & JMFC.,
Magadi.**