



**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE & JMFC.,
AT MAGADI.**

-.Present:-

Sri. Shrinivasa K.R. B.A.L., LL.M.,
Prl. Civil Judge & JMFC.,
Magadi.

Dated this the 09th day of September, 2024

O. S. No. 118/2021

PLAINTIFFS : Sri.Lakshman,
S/o Late Kempaiah & Ors.

:Vs:

DEFENDANTS : Smt. Jayamma,
W/o Late Kempaiah & Ors.

I.A. No.IV

**APPLICANTS/
PROPOSED
DEFENDANTS:**

Smt.Prema,
W/o Late Krishnappa,
Aged about 48 years,
Residing at Neseapalya,
Madbal Hobli,
Magadi Taluk,
Ramanagara District.

**(Proposed D-4 Rep. By Sri. S.C.R.
Advocate)**

:Vs:



**OPPONENTS/
PLAINTIFFS :**

1. Smt.Jayamma,
W/o Late Kempaiah,
Aged about 75 years,

2. Sri.Gangadharaiah,
S/o Late Kempaiah,
Aged about 55 years,

Both are residing at
Naganahalli Village,
Soluru Hobli,
Magadi Taluk,
Ramanagara District.

3. Sri.Manjunatha,
Since dead by his LR's

3(a). Smt.Hemavathi.G.R,
W/o Late Manjunatha.N,
Aged about 43 years,

3(b). Kum. Manjuvaani,
D/o Late Manjunatha.N,
Aged about 25 years,
Residing at No.86, 1st Main,
4th cross, H.Veeraiah enclave,
Arishinakunte, Nelamangala-562123.

**(Plaintiffs Rep. By Sri. L.P.S.
Advocate)**



ORDER ON IA.NO.IV

The proposed defendant No.4 has filed present application under Order I Rule 10 of CPC, to implead her as defendant No.4 in the present suit.

2. In an annexed affidavit, the proposed defendant contended that, one Sri.Kempaiah is the father of proposed defendant No.4 and father of plaintiff No.1 and defendant No.2 and 3 and husband of defendant No.1. During the life time of her father constituted a Hindu undivided joint family consisting himself and his wife and children. The said Sri.Kempaiah married one Jayamma who is the defendant No.1 and due to wedlock with Jayamma he had three sons and one daughter i.e., defendant No.2, defendant No.3, plaintiff No.1 and proposed defendant No.4. The proposed defendant No.4 father died on 04.0.2012 leaving his wife and children as his legal heirs.

During the life time of father of proposed defendant and his brothers were divided their family properties through a



panchayathi partition dated 12.02.1981 and as per the partition the share fallen to the father of proposed defendant and the revenue records were changed in the name of the respective parties. After the death of father of proposed defendant the revenue records are standing in the name of her mother i.e., defendant No.1 on phothi basis. The proposed defendant No.4 demanded the plaintiff No.1 and defendants for effect partition in ancestral properties. But the plaintiff No.1 and defendants have denied to effect the partition in the joint family properties. Hence, she filed the suit in O.S. No.317/2021 on the file of Prl. Senior Civil Judge, Magadi against the plaintiff No.1 and defendants for the relief of partition and separate possession and said suit is pending for adjudication. Hence, prays to allow the application.

3. On the other hand, the plaintiffs filed objection contending that, the proposed defendant colluded with the other defendants filed present frivolous application for troubling the plaintiffs. The proposed defendant knows that



there was a partition between the plaintiffs and defendants on 02.01.1992 and proposed defendant has no right with respect to the suit schedule properties. Hence, prays to reject the application.

4. Heard by learned counsel for plaintiffs & proposed defendant.

5. Following points that arise for my consideration:

1. Whether the proposed defendant No.4 is the proper and necessary party to the suit ?
- 2.What order ?

6. My answer to the above points are as under;

Point No.1 - In the **Affirmative**.

Point No.2 - As per order for the following.

REASONS

7. **POINT No.1**: This is a suit filed by the plaintiffs against the defendants for the relief of declaration and injunction.

8. The object of Order 1 Rule 10 of CPC, is that, any party improperly joined or to add any person who ought to



have been joined or whose presence is necessarily to enable the court to effectually adjudicate upon and settled and questions involving the suit.

9. I have carefully gone through the avernments of application and documents, the contention of the proposed defendant is that, she is also one of the daughter of Sri.Kempaiah and plaintiff No.1 and defendant No.2 and 3 are the bothers and sister of proposed defendant and the defendant No.1 is the mother of proposed defendant and the suit schedule property is the ancestral property of proposed defendant, plaintiff No.1 and defendants. Therefore, to adjudicate the matter with effectively and to avoid the multiplicity of proceedings, proposed defendant is the necessary party to the suit, without whom the suit cannot be adjudicated effectively. Hence, this court is opined that, the application filed by the proposed defendant deserves to be allowed. Accordingly, I answer the point No.1 in the **Affirmative.**



10. **POINT No.2:** In view of reasoning assigned above, I proceed to pass following :

ORDER

The application filed by the proposed defendant No.4 U/Order I Rule 10 of CPC, is hereby allowed.

The plaintiffs is hereby permitted to carryout the amendment and directed to implead the proposed defendant as defendant No.4 and furnish the amended plaint without fail.

(Directly dictated to Stenographer directly on the Computer, typed by her, then corrected and pronounced by me in the open Court on this the **09th day of September, 2024.**)

**Prl. Civil Judge & J.M.F.C.,
Magadi.**