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**IN THE COURT OF THE PRL.CIVIL JUDGE AND JMFC.,
AT SORABA**

Present: Sri.Raghavendra Upadhye, (B.A.LL.M.),
Prl.Civil Judge & JMFC., Soraba.

Dated this the 20th day of January 2024

O.S.No.222/2015

Plaintiff : Smt. Gowramma
V/s.

Defendants : Sri. Suresh and others

ORDER ON I.A.No.VIII

Applicant : Smt. Gowaramma
(By Sri.Y.N.H- Adv.)
V/s.

Opponent : Sri. Suresh and others

(D1 By Sri.B.S.H.-Adv.)

(D3 & D4 By Sri. G.H-Adv.)

(D2 & D5 exparte)

**ORDER ON I.A.No.VIII FILED BY THE PLAINTIFF U/O I RULE
10 (2) OF C.P.C**

The plaintiff has filed the application under Order I rule 10 of C.P.C., to implead the proposed defendants as defendant

No. 3 to 5.

2. In support of application, the plaintiff has filed affidavit and submitted that, in written statement at para No.4 defendant No.1 has submitted that, the proposed defendants are necessary parties to this suit. The objections made by the defendant No.1 are serious in nature. Therefore to avoid the technical defence this application has been filed. Hence prayed to allow the application.

3. After service of notice. the proposed defendant No.3 and 4 have appeared before the Court and filed objection.

4 The objection of proposed defendant No.3 and 4 is as under:-

The proposed defendants are bonafide purchasers as they have purchased property on 15.09.2005 through registered sale deed and enjoying the property till now. The plaintiff has filed this application in order to grab their property and to harass them. The plaintiff knew about sale of property prior to institution of this suit. Therefore, it is not proper to implead the proposed defendants at this stage through an order from this Court. The proposed defendants have purchased land in survey No.110/2 measuring 30 guntas for the purpose of road. In order to close the road and to grab the suit schedule property of impleading proposed defendants as defendants is not proper. Hence prayed to reject the application.

5.Heard.

6. The following points arise for consideration of the court.

POINT

1. Whether the presence of proposed defendants are the necessary and proper parties to this suit?
2. What order?
7. The findings on the above points are as under:-
 - Point No. 1: In the Affirmative.
 - Point No. 2: As per final order for the following:

REASONS

8.Point No. 1: The plaintiff has instituted this suit for declaration of ownership and permanent injunction to restrain the defendants from causing obstruction in the enjoyment of suit schedule property. Under the present application the plaintiff has sought for impleading proposed defendant No.3 to 5 as defendant No.3 to 5.

9. In support of application the plaintiff has filed affidavit and submitted that in order to avoid technical defence raised by the defendant No.1 in written statement the presence of proposed defendants is necessary for the adjudication of this matter. At para No.3 defendant No.1 has pleaded that, son of plaintiff by name B.J. Santhish has sold 30 guntas of land in survey No.110 in favour of sons Kuruvatti Keriappa by name Mahabalagiri Kuruvatti, Kannappa Kuruvatti and Annappa Kuruvatti on 15.09.2002. At para No.4 defendant No.1 has pleaded that, the said purchasers are necessary parties to this suit.

10. The plaintiff is the master of is case. In the present case the plaintiff is under apprehension that as per the strong contentions urged by defendant No.1 in his written statement

there is necessity of impleading proposed defendants in order to avoid technical defence. The intend of the plaintiff is that, suit shall not be dismissed on the technical grounds.

11. In the objection filed by the proposed defendants also it is mentioned that, the plaintiff has impleaded them in order to close the road. This itself shows that, the out come of this case has impact on proposed defendants. The plaintiff has filed this suit in respect of land survey No.110/2 to the extent of 18 acres . The proposed defendants claiming that, they have purchased 30 guntas of land in land survey No.110/2 for the purpose of road. All these aspects goes to show that, the presence of proposed defendants is necessary for the complete and final adjudication of the matter. Therefore point No.1 is answered in affirmative.

12. **Point No. 2:** For the reason discussed on point No. 1, the Court pass following;

ORDER

The IA No.VIII filed by the plaintiff under order 1 rule 10(2) of Civil Procedure Code is hereby allowed.

The proposed defendant No.3 to 5 are hereby impleaded as defendant No.3 to 5.

(Dictated to the stenographer, typed transcript corrected and then pronounced by me in the open court on this the 20th day of January 2024)

Prl. Civil Judge and JMFC.,
Soraba.

Order pronounced in the open court
(vide separate order)

ORDER

Prl.CivilJudge and JMFC.,
Soraba

