

ORDER ON I.A.No.V

The present application is filed by the applicant U/o 1 Rule 10 R/w Sec. 151 of CPC praying to implead her as defendant No.6 in the suit.

2. It is contended in the accompanied affidavit that the present plaintiff filed the suit for the relief of Partition and

Separate Possession in respect of schedule property.

3. Further it is contended by the plaintiff that her mother executed registered relinquishment deed on 21.03.2017. The said relinquishment deed is illegal void to grab the share of this defendant, the plaintiff created the said document and filed said suit against the defendants. The proposed defendant is the only LR's of the Rudramma and she is entitled the share of the said Rudramma. Hence, the proposed defendants prays to allow the application.

4. In turn the plaintiff filed the objection to the said application and contended that the mother of proposed defendant during her life time executed the registered relinquishment deed in favour of the plaintiff. Hence, the question of claiming share over by her LR's question does not arise. The applicant has not made out any grounds to allow the application. Hence, the plaintiff prays to dismiss the application.

5. Heard the counsels.

6. The following points arise for my consideration:

P O I N T S

- 1) Whether proposed defendant is the necessary party to the suit for determination of real matter in dispute?
- 2) What Order?

7. My finding to the above points are as follows:

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

Point No.2 : As per final order for the following:

REASONS

8. **Point No.1** :- Admittedly, the present plaintiff for the relief of Partition and Separate Possession in respect of suit schedule property claiming 1/3rd share over the suit schedule property by the plaintiff against the defendants. Further it is admitted facts that Rudramma is the mother of proposed defendant. It is contended by the plaintiff that the mother of proposed defendant Rudramma relinquished her share in favour of plaintiff by executing the registered relinquishment deed dated 21.03.2017. Hence, the plaintiff is entitled her 1/3rd share on registered relinquishment deed. The defendant in this case denied the same and contended that Rudramma had not executed any document in favour of the plaintiff. Hence, he is not entitled any share of the said Rudramma.

9. Further it is contended by the proposed defendant and she is the only LR's of said Rudramma and she had not executed any document in favour of the plaintiff as contended by the plaintiff. Hence, the proposed defendant is entitled the share of the said Rudramma.

10. It is burden on the plaintiff to prove that, his sister by name Rudramma executed registered relinquishment deed in favour of him on 21.03.2017 and relinquished her share in favour of the plaintiff. It is also burden on the plaintiff to prove that the suit schedule properties are ancestral and joint family properties. Further it is a burden in the proposed defendant that she is the only Lr's of the said Rudramma and she had not executed any registered files in favour of the plaintiff and relinquished her right over the suit schedule property in favour

of plaintiff. In these circumstances, this court is of the opinion that proposed defendant is necessary parties for proper adjudication of dispute between the parties. If the present application is not allowed, then proposed defendant have to file separate suit against the plaintiff and defendants and the proposed defendant. After impleading her as a party, she can take her defence available under law and if she is not impleaded as a party to the suit, no loss or hardship will be caused to plaintiff. After considering the materials on record, this court is of the opinion that the presence of defendant is necessary for effective adjudication of the dispute and in whose presence no effective decree cannot be passed with these observations this court answer Point No.1 in the ***Affirmative.***

11. **Point No.2:** In the light of foregoing discussion, I proceed to pass the following:

ORDER

I.A.No.V filed by the learned counsel for the proposed defendant U/o 1 Rule 10 R/w Sec.151 of CPC is hereby allowed on cost of Rs.200/-.

The proposed defendant is hereby impleaded as defendant No.6 in the suit.

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

Call on 09.07.2026.

(RAJU K SHEDBALKAR)
Prl. Civil Judge & JMFC.,
Soraba.