

KATK210004292016



IN THE COURT OF THE PRL.CIVIL JUDGE & J.M.F.C.,
AT CHIKKANAYAKANAHALLI.

Dated: This 02nd day of December 2024

Present: SRI.SHRINATH. A., *B.A.L, LL.B.*,
Prl. Civil Judge & JMFC.,
C.N.Halli.

OS No.51/2016

Plaintiffs: Thammaiah and others

//versus //

Defendants: Siddappa and others

ORDERS ON IA.NO.15/2024

Applicant : Umesh

//versus //

Opponents : Thammaiah and others

ORDERS ON APPLICATION UNDER ORDER 1
RULE 10(2) OF CPC

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1. The defendant No.6 has prayed to transpose him as plaintiff No.2. In the affidavit he submits that the sole plaintiff and the remaining defendants have colluded acting adverse to his interest and therefore has filed this application.
2. Objections filed by defendant No.1 saying that such application is not maintainable in a suit for partition. The defendant No.6 has not filed the written statement. It is the defendant No.1 who is contesting and therefore the defendant No.6 cannot be transposed as plaintiff and prays to dismiss the application.
3. Heard respective advocates. This is a suit for partition. The defendant No.1, 3 to 5 have filed a written statement praying to dismiss the suit. The present defendant No.6 is also one of the coparcener. The allegation made is that the other parties are colluding. Such reason cannot be ground to transpose. For transposition as plaintiff, there has to be abandonment of the claim by the plaintiff or should have withdraw the suit. From perusal of order sheet it is seen that the plaintiff is contesting the suit and there has been evidence led by the plaintiff and is posted for defendant evidence, during when this application has been filed. It is only the defendant No.1 who has cross examined the plaintiff and defendant No.6 has not cross examined. This shows the malafide intention of the defendant No.6 who is actually colluded with the plaintiff. Since there is no abandonment or withdrawal of

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suit by the plaintiff, the defendant No.6 has not made out ground for transposition. Moreover the defendant No.6 has not filed written statement. Hence for the above reasons, this court has proceed to pass the following:

ORDER

The application filed by defendant No.6 under
Order 1, Rule 10(6) Of CPC is hereby dismissed.

(Order dictated to the typist, transcribed and computerized by him, then corrected and pronounced by me in the Open Court on this 02nd day of December, 2024.)

Sd/-
Prl. Civil Judge & JMFC,
Chikkanayakanahalli.