



**IN THE COURT OF ADDL. SENIOR CIVIL JUDGE & JMFC.,
GUBBI.**

PRESENT:

SMT. POORNIMA .K. YADAV, B.A.LL.B., LL.M.,
Addl. Sr. Civil Judge & JMFC, Gubbi.

Dated on this the 2nd day of April, 2025

ORIGINAL SUIT NO. 378/2024

Plaintiff/s : Umruddin
(By Sri T.N.R, Adv.)

Vs.

Defendant/s: Safulath Banu and Others
(D1 to D6 by Sri S.G. Adv.,)
(Proposed D7 to 10 by Sri K.M.S.Adv.,)

PARTIES TO I.A.NO.II

Applicant : Aktharunnisa and Others,
Vs.

Opponent : Umruddin

Provision under the Application	Under Order 1 Rule 10(2) of CPC
Application Relief sought for	To implead the proposed defendants No.7 to 10
The date of the application is filed	16.01.2025
Interlocutory Application Number	II
Date of objection filed by the defendants	01.02.2025
Date of orders passed	02.04.2025

Sd/-
(POORNIMA K. YADAV)
Addl. Senior Civil Judge &
JMFC, Gubbi.



ORDERS ON IA NO. II

When the matter was pending for issuance of suit summons, the present application is filed.

The applicants through their counsel filed this application U/O 1 Rule 10 (2) of CPC seeking to implead themselves as Defendant No. 7 to 10.

2. The application is accompanied with the affidavit of the of the applicant No.3, wherein it is stated that, the proposed defendants are the absolute owners and in possession of the suit schedule property. The said property originally belonged to Sheik Dawood Saheb @ Sheik Ahamadsab S/o Abdul Kareem and Mohabubiyamma. They were in peaceful possession and enjoyment over the suit schedule property till their death. After the death of the said Mohabubiyamma, the said Sheik Dawood Saheb @ Sheik Ahamadsab and his son Nijamuddin Sab sold the suit schedule property to the father of proposed defendants through registered sale deed dated 16.05.1959. From the date of sale deed, the said



Kasim Sab was in peaceful possession and enjoyment over the suit schedule property till his death. The said Kasim Sab did not get the katha and pahani changed in to his name. The proposed defendants are in possession and enjoyment over the suit schedule property. The plaintiff and the defendants are strangers to the suit schedule property and in collusion with each other they got created documents pertaining to the suit schedule property and filed this suit. The proposed defendants are necessary parties for adjudication of the matter in dispute. Hence, sought to allow the application.

- 3.** On the other hand the plaintiff through his counsel filed objection and contended that the application is not maintainable and it is liable to be rejected. It is contended that the plaintiff has filed this suit seeking relief of declaration and the present application is filed only to drag on the proceedings and harass the plaintiff and with an intention to grab the suit schedule property. The proposed



defendants have created sale deed dated 16.05.1959 and the father of proposed defendant No. 7 to 10 is not the purchaser of the suit schedule property. The said Sheik Dawood Saheb @ Sheik Ahamadsab died on 06.03.1958 but the proposed defendant filed the present application claiming their rights on the basis of sale deed dated 16.05.1959. The proposed defendants are not the proper and necessary parties in this suit. Hence, sought to dismiss the application.

4. Heard both the counsel.
5. Upon hearing and based upon materials available on record, the point that arise for my consideration is:

Whether the proposed defendants are necessary parties for adjudication of the matter in dispute ?

6. My finding to the above point is in the **“Affirmative”** for the following :



REASONS

7. Admittedly, this suit is filed seeking relief of declaration of title and alleged partition deed dated 23.09.2024 in respect of the suit schedule property as not binding on the plaintiff.
8. It is the case of the plaintiff that his father by name Sheik Ahamadsab purchased the suit schedule property and after his death, the plaintiff and his family members continued their possession and enjoyment over the suit schedule property. It is alleged that the defendants got created G-Tree and mutated the names of defendant No. 1 to 6 vide MR No. H17/2024-25 dated 21.09.2024 on pouthi varasu by colluding with revenue officials. There after they got created partition deed dated 23.09.2024 and got changed revenue entries vide MR No. H28/2024-25 dated 14.10.2024 as partition.
9. The proposed defendant intends to come on record as defendant No. 7 to 10 stating that their father purchased the suit schedule property from Sheik Dawood Saheb @



Sheik Ahamadsab under registered sale deed dated 16.05.1959 but as the said Kasim Sab did not have worldly knowledge, he could not change katha and pahani into his name. It is alleged by the proposed defendant that the plaintiff and the defendant No. 1 to 6, in collusion with each other got created partition deed and filed this suit to grab the property belonging to the proposed defendants.

- 10.** The proposed defendants through their counsel produced copy of sale deed dated 16.05.1959 to show that their father purchased the suit schedule property and document dated 25.10.2024 to show that the plaintiff and the defendants got created cancellation of partition deed dated 25.09.2024.
- 11.** As the claim of the proposed defendants is in respect of the suit schedule property on the basis of sale deed of the year 1959, their presence is necessary in this suit for adjudication of the matter in dispute. In the said circumstances, this court is of the opinion that the proposed defendants are proper and necessary parties for the



adjudication of the matter in dispute. Accordingly, I proceed to pass the following :

ORDER

I.A. No. II filed by the applicants under Order 1 Rule 10 R/W Section 151 of CPC is hereby allowed.

Proposed defendants are impleaded as defendant No. 7 to 10.

Parties to bear their own costs.

Sd/-
(POORNIMA. K. YADAV)
Addl. Sr. Civil Judge & JMFC,
Gubbi.