



**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 31st day of August, 2023

ORIGINAL SUIT NO. 65/2016

Plaintiff/s : Doddaiah

Vs.

Defendant/s : Rathnamma and others

PARTIES TO I.A.NO.XIX

Applicant/defendant : Gowramma
(SPA Holder of Plaintiff)

Vs.

Opponent/plaintiff : Rathnamma and others
(Defendants)

Provision under the Application	Under Order 1 Rule 10 of CPC
Application Relief sought for	To implead the proposed defendants No. 61 to 67
The date of the application is filed	18.10.2022
Number of Application	XIX
Date of objection filed by the defendants	Not filed
Date of orders passed	31.08.2023

Sd/-

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



ORDERS ON IA NO.XIX

When the matter was pending for further cross examination of PW1, the SPA Holder of Plaintiff filed the present application.

The SPA holder of plaintiff through his counsel filed this application U/O 1 Rule 10 of CPC seeking to be implead the proposed defendants as defendant No.61 to 67.

2. The application is accompanied with the affidavit of the of the SPA Holder of the plaintiff, wherein it is stated that the plaintiff has filed this suit seeking relief of partition and separate possession in respect of suit schedule properties. It is stated that the plaintiff had a brother by name Sanjeevaiah and a sister by name Jayamma. The said Jayamma is proposed defendant No. 61. It is stated that Chikkanna S/o Sanjeevaiah @ Chikkerei Sanjeevaiah @ Chikkasanjeevaiah had a daughter by name Sanjeevamma W/o Narasappa who is dead leaving behind her children i.e. the proposed defendant No. 62 to 67, who are the proper and necessary parties in the suit. Hence, sought to allow the



application.

3. After filing of the application, Notice was issued to the proposed defendants No. 61 to 67. In spite of duly service of notice, the proposed defendant No. 61 to 67 did not appear as such, they were placed absent.
4. Heard the counsel for the plaintiff.
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 Partition and separate possession of plaintiff's equal share in the suit schedule properties Item No. 1 to 25 as per registered partition deed dated 04.02.1952.
8. The SPA Holder of the plaintiff intents to implead his sister



as proposed defendant No. 61 and grand children of Chikkanna S/o Sanjeevaiah @ Chikkerei Sanjeevaiah @ Chikkasanjeevaiah as defendant No. 62 to 67. The affidavit filed by the SPA holder of the plaintiff shows that the brother of the plaintiff by name Sanjeevaiah was impleaded as defendant No.39. The plaint averments discloses that after the death of the defendant No. 39, his wife and sons are brought on record as defendant No. 39(a) to 39(c).

9. The counsel for the plaintiff argued that in the genealogical tree as per Ex P26, the name of proposed defendant No. 61 and the name of Smt. Sanjeevamma D/o Chikkanna are not seen but they are necessary parties to the suit.
10. When Ex P26 is read along with the relationship of the proposed defendants as described in the affidavit accompanying IA No. 19, it is seen that the proposed defendant No. 61 is the sister of the plaintiff and the proposed defendant No. 62 to 67 are the children of aunt of the plaintiff.
11. As the proposed defendants are related to the family of the



plaintiff through the original propositus Sanjeevaiah @ Chikkerei Sanjeevaiah @ Chikkasanjeevaiah, I feel it is necessary for the proposed defendants to participate in the suit proceedings for adjudication of matter in dispute. As such, the proposed defendants are the proper parties in this suit. However, the delay in filing the application is compensated by imposing costs. Accordingly, I proceed to pass the following :

ORDER

I.A. No. XIX filed by the SPA Holder of plaintiff under Order 1 Rule 10 of CPC is hereby allowed on cost of Rs.1,500/-.

Proposed defendants are impleaded as defendant No.61 to 67.

Plaintiff counsel shall carry out necessary amendment and filed amended plaint.

(Dictated to the Stenographer directly on computer, typed by her, corrected and then pronounced in the open court on this the 31st day of August, 2023).

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