



IN THE COURT OF ADDL. CIVIL JUDGE AND JMFC.,
KUNIGAL
Present:

Sri. Manjunath Shivapooji, B.A., L.L.B.,

Addl Civil Judge & JMFC., Kunigal.

Dated: 13th day of January, 2026

O.S.NO. 204/2020

Plaintiff : Mahadevamma
V/s

Defendants : S.M.Venkatesh & others

I.A.

Applicant : Mahadevamma
V/s.

Opponent : S.M.Venkatesh

ORDERS ON APPLICATION FILED BY THE APPLICANT
UNDER ORDER I RULE 10 OF CPC

On perusal of plaint, it appears that plaintiff has filed this suit for the relief of partition and separate possession against the defendants with respect to suit property.



2. The applicant filed IA U/O 1 Rule 10 of CPC to implead proposed defendant as defendant No.8 in this suit. The applicant has contended that, during the pendency of suit, the defendant No.5 has sold the suit property in favour of proposed defendant under sale deed dated: 08.04.2022. Based on the sale deed, the proposed defendant has mutated the katha of suit property in his favour. Hence, the proposed is the the necessary party to this suit. If the proposed defendant has impleaded as defendant No.8, no harm will be caused to him. Hence, prayed to allow the application.

3. On the other hand, the proposed defendant has filed objection and contended that, the cause show in the application is not sustainable under the law. The plaintiff has filed this application only with an intention to give harassment to proposed defendant and to drag the proceedings. The application filed by plaintiff is finds no



merits and the application stands devoid from merits and deserves to be dismissed. The defendant No.8 is the bonafide purchaser of suit property. The plaintiff and defendants have no right over the said property. Hence, the question of impleading the proposed defendant in this suit does not arise at all. Hence, the application is liable to be dismissed.

4. Heard arguments.

5. On basis of the application and documents on record, the following points that arise for the determination of this court.

1. Whether the application deserves to be allowed?

2. What order?

6. My 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

7. Point No.1 : The plaintiff has filed the present suit for the reliefs of partition and separate possession with respect to the suit schedule property against the defendants.

8. This court has perused the documents produced by applicant in support of his IA. On perusal of those documents and affidavit of applicant, this court has come to the conclusion that, the proposed defendant is necessary party to the suit. Whether the application has right over the suit property or not shall have to be determined after full fledged trial. Moreover, the burden of proving his contention is casted on plaintiffs to prove their case.

9. In this case the counsel for proposed defendant has relied on the judgment of Hon'ble High Court of Karnataka in *2012 ILR(Karnataka), 4129*. This court has perused the said judgment. On perusal of the same it appears that, the said



judgment is not supporting the contention of proposed defendant. Because in the said judgment the Hon'ble High Court has held that, the suit shall not be dismissed for the reason non-joinder of alienes. It does not mean that, the purchaser is not necessary party to this suit and the purchaser should not be included in the suit. So, at this juncture by considering the above said judgment of Hon'ble High Cour of Karnataka, this court comes to the conclusion that, the proposed defendant is necessary party to this suit.

10. Therefore, this court is of the opinion that to decide the matter fully and finally the IA filed U/O 1 Rule 10 CPC is deserves to be allowed. In the absence of proposed defendant suit cannot be decided. If the application is allowed and the proposed defendant is brought on record as defendant No.8, no harm will be caused to the him. Hence, to avoid the multiplicity of the proceedings, this court inclined to allow the



IA U/O 1 Rule 10 CPC in the interest of justice and equity.

Accordingly, Point No.1 is answered in the **Affirmative**.

11. Point No.2: For the above discussed reasons, this court proceeds to pass the following:

ORDER

IA filed U/O 1 R 10 of CPC is hereby
allowed.

The plaintiff is directed to amend the
cause title and to furnish amended plaint
by 14.01.2026.

Sd/-
Addl Civil Judge and JMFC,
Kunigal.