



**IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC
AT MADHUGIRI**

Dated this the 19th day of January 2024

Present :

SRI RAGHUNATHA GOWDA K.T.

B. Com., L.L.B.

**Prl. Civil Judge & JMFC,
Madhugiri.**

O.S. No.306/2013

PLAINTIFF : Smt. N.T. Gavithimmaiah
@ Gaviyappa
S/o late Thimmarayappa,
aged about 36 years,
R/o 3rd ward, Opp: Forest Office,
Chikkanayakanahalli,
Tumkur District.
Now R/o Mathikere,
Yashavanthapura, Bangalore.

(By Sri. MNG., Advocate)

Vs/-

DEFENDANTS : 1. Sri. T. Ananthakumar
S/o late Thimmarayappa,
aged about 48 years
2. Smt. Padmavathi M.R.
W/o T. Ananthakumar,
aged about 40 years

3. Smt. Shoba M.A.
D/o T. Ananthakumar
(Press Reporter),
W/o N.B. Chandramohan,
aged about 26 years
Pavagada Town.
4. Smt. Jahnavi M.A. @ Lakshmi
D/o T. Ananthakumar
W/o Druvakumar,
aged about 25 years,
R/o Pete Beedhi, Kyathsandra,
Tumkuru.
5. Smt. Meena M.A.
D/o T. Ananthakumar
W/o A. Ravikumar,
aged about 22 years,
R/o #18, 4th 'A' cross,
K.N Extension, Yashwanthapura,
Bangalore-560022.
6. Kum Jnanachandra
S/o T. Ananthakumar,
aged about 16 years, minor
by next friend natural
guardian represented
by her mother Padmavathi

Defendants 1, 2, 6 now
R/o Pete Beedhi,
Kyathsandra, Kasaba
hobli, Tumkuru.

7. Smt. Jayamma @ Jayanthi
D/o late Thimmarayappa
W/o Rangadhamappa
aged about 40 years
R/o Arapete, Madakasira Town
Ananthapura Dist, A.P.

8. Smt. Lakshmi Devamma
W/o late Thimmarayappa
aged about 62 years
R/o Lingenahalli,
Madhugiri Town.

Dead by Lrs.

The 8th defendant is died, the
plaintiff, 1st and 7th defendant
are the legal heirs of the deceased
8th defendant and they are
already on record.

The amendment is carried as per
the orders of the Hon'ble Court.

9. Smt. T.D. Sowbhagya
W/o Jayaramaiah
aged about 37 years,
R/o Venkatapura village,
Kasaba hobli, Madhugiri Taluk.

10. Sri. N.R. Govindaraju
S/o late N.V.Rathnaiah Shetty,
R/o VRS temple street,
Madhugiri town.

11. Smt. Usha Dhanpal
W/o K.V. Dhanpal

aged about 45 years
R/o VRS temple street,
Madhugiri Town.

12. Sri. Govindaraju S/o Rangappa
aged about 45 years,
R/o Somlara village, Kasaba
hobli, Madhugiri Taluk.

(Defendant No.1 by Sri. MM, Adv)
(Defendant No.2,4,6,11,12 absent)
(Defendant No.7 & 8 by Sri. KVSK, Adv)
(Defendant No.10 by Sri. DVS, Adv)

I.A. No. XIII

Applicant : N.T. Gavithimmaiah Plaintiff
Vs/-

Opponent :

Sri. N.G.Jayakumar
S/o N.S. Govindarajulu Gupta,
aged about 58 years
R/o Rajatadri Nilaya
Surya Nursing Home Road,
Municipal Layout,
Siddaganga Extension,
Tumkuru Town.

.... Prop. Defendant

* * *

ORDER ON IA No.XIII

When the matter posted for hearing on I.A.No.XII under Order VI Rule 17 of CPC at this stage the plaintiff filed this application

U/o. I Rule 10 (2) of C.P.C., seeking permission to impleaded the opponent as defendant No.13 in this suit in the interest of justice.

2. In support of this application the the plaintiff filed his affidavit, he contended that he filed this suit against defendants for the relief of Partition and Separate Possession in respect of suit schedule properties. Further he contended that himself and defendant No.1 to 8 are the joint family members, the suit schedule properties are the ancestral and joint family properties of themselves. The item No.1 including two survey numbers i.e., Sy.No.75/1 and 75/2 durastu phodi as single Sy.No.75 measuring 5 acre 15 guntas out of which the defendant No.10 as purchased 2 acre 35 guntas and the opponent / proposed defendant purchased 2 acre 20 guntas and his name standing in Sy.No.75/2. Further he contended that due to oversight at th time of filing the suit the opponent has not insert in the suit and he is proper and necessary party to adjudicate the matter. If the application is allowed no loss or hardship caused to the other side. Hence he prays to allow this application.

3. Per contra, the proposed defendant counsel filed objection to said application contended that the application filed by the plaintiff is not maintainable either in law or facts. Further he contended that he is absolute owner of land bearing Sy.No.75/2 to extent of 2 acre 20 guntas purchased through Registered Sale Deed dated 24-04-1992. The said fact is well known to the plaintiff he has

not impleaded in this suit, after lapse of 10 years the present application is filed. Hence he prays to reject the said application.

4. Heard the arguments on both Counsel. The proposed defendant No.13 filed written arguments.

5. After perusal of the records of the case, the following point would emerge for my consideration:

1. **Whether the proposed defendant No.13 is necessary party to adjudicate the matter ?**

2. **what order ?**

6. My finding to the above point as under :

Point No.1 : In the Affirmative

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

REASONS

7. **Point No.1**:- On perusal of the entire materials available on records it clearly reveals that, the plaintiff filed this suit against the defendants seeking for the relief of partition and separate possession with respect of suit schedule properties. Further the proposed defendant No.13 purchase the item No.1 i.e., land bearing Sy.No.75/2 to extent of 2 acre 20 guntas through Registered Sale Deed dated 24-04-1992. Further the said fact is not disputed by the proposed defendant No.13. The only contention of the proposed defendant No.13 that after lapse of 10 years the present application is filed. On perusal

of the records the proposed defendant No.13 is proper and necessary parties to adjudicate the matter and without the proposed defendant No.13 the suit of plaintiff cannot be properly adjudicated and in the interest of justice to resolve the dispute between the parties the proposed defendant No.13 is proper and necessary parties to adjudicate of the matter. Hence for the above said reasons, my answer to point No.1 in the 'Affirmative'.

8. **Point No.2:-** In view discussion made supra. I proceed to pass the following:

ORDER

I.A. No.XIII filed by the plaintiff under Order I Rule 10 (2) of C.P.C., is hereby allowed.

Consequently the proposed defendant to contest the suit as defendant No.13 and plaintiff is directed to amend the cause title and furnish the amended plaint.

No order for costs.

(Dictated to the stenographer directly on computer, corrected by me and then pronounced in open court on this **19th day of January 2024**)

Sd/-
(Raghunatha Gowda K.T.)
Prl. Civil Judge & JMFC,
Madhugiri.