



IN THE COURT OF THE ADDL.CIVIL JUDGE AND
JMFC., Sira

KUM. SHARMILA E.J., B.A. LL.B., LL.M.,
Addl. Civil Judge & JMFC., Sira.

Dated this the **24th** day of **July 2025**

O.S. No.148/2015

Plaintiffs : Hanumakka
(By Sri. B.R., Advocate)

-V/S-

Defendants : Lalithamma & others

(Def No.1 to 3 By Sri. H.M.R. Advocate)
(Def No.4 By Sri. D.G. Advocate)
(Def No.5 By Sri. K.P. Advocate)

-V/S-

PARTIES TO THE I.A. NO. VI

Applicant/s: Hanumakka (Plaintiff)

-V/S-

Opponent/s: Proposed defendant No.6d

4.Badappa S/o
Hanumantharayappa
Aged about 55 years,
R/at Changavara village,



Gowdagere Hobli, Sira taluk.
Now R/at Pattanayakanahalli,
Sira taluk.

**ORDER ON I.A. No. VI UNDER ORDER 1 RULE 10 r/w Sec.
151 OF CODE OF CIVIL PROCEDURE, 1908**

This application is filed by the plaintiff under Order 1 Rule 10 r/w Sec. 151 of the Code of Civil Procedure, 1908 seeking to implead the opponent as defendant No.6 in the present suit.

2. In the affidavit accompanying the application, the plaintiff has stated that defendant No.2, during the pendency of the suit has caused executed registered sale deed dated:16.12.2020 in favour of the proposed defendant No.6 in respect of the suit schedule property bearing Sy. No. 168/5 i.e. item No.3 of the suit schedule property. The plaintiff alleges that the said sale is illegal and was made without her knowledge or consent. Therefore, it is contended that he is necessary party to the suit for the purpose of effective and complete adjudication of the issues involved. It is further contended that no prejudice would be caused to the proposed



defendant No.6, if the application is allowed, and hence, the plaintiff has prayed for allowing the application.

3. After filing of the application, notice was issued to the proposed defendant No.6. He has appeared through his counsel and has filed objections, contending that the application is not maintainable either in law or on facts and is liable to be dismissed in limine. He submits that he is a bonafide purchaser for valuable consideration and that he is in lawful possession of the said property based on the registered sale deed. The Katha has been mutated in his name. He further contends that the present application is filed in collusion with the existing defendants with an intention to harass him and to interfere with his peaceful possession. He contends that he is neither a necessary nor a proper party to the suit. Hence, he has prayed for dismissal of the application.

4. Heard and perused all materials available on record. The points that arise for the consideration of this court are as follows;

i. Whether the applicant/plaintiff has made out a case that the proposed defendant no.6 is



necessary party to the suit and his presence is necessary for court to effectually and completely adjudicate upon and settle the question involved in the suit?

ii. What order ?

5. This court answers to the above points are as hereunder :

Point No.i : In the affirmative,

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

REASONS

6. Point No.1:- The suit is filed by the plaintiff for partition and separate possession of the suit schedule properties. It is not in dispute that, during the pendency of the suit, defendant No.2 has executed a registered sale deed dated:16.12.2020 in favour of the proposed defendant No.6 in respect of the item No.3 of the suit schedule property bearing Sy. No.168/5. Now the said suit schedule property stands in the proposed defendant No.6 name as per the revenue records. This clearly shows that he is asserting rights over the said suit property and any decision in the suit will directly affect his interests.



7. Order I Rule 10(2) of the Code of Civil Procedure, 1908 empowers the Court to add any person as a party at any stage of the proceedings if their presence is necessary for the Court to effectively and completely decide the issues involved. Although the plaintiff, being dominus litis, has the initial choice of whom to sue, this right is not absolute. If the Court finds that the presence of a person is essential to avoid incomplete or ineffective adjudication, such a person can be added as a party. A necessary party is one in whose absence no effective order can be passed. If such a party is not added, the suit itself may fail. A proper party is one whose presence helps the Court decide the matter more effectively. The Court does not have the power to add persons who are neither proper nor necessary. It is also well settled that merely having an interest in the property is not enough. the key consideration is whether the person's legal rights may be affected by the outcome of the suit.

8. In the present suit, the proposed defendant No.6 has been brought on record because the property has been transferred to his name during the pendency of the suit. He now claims to



have derived rights and title over the said suit schedule property. Any decree passed in the suit is likely to affect his claimed rights. Therefore, it is necessary to implead him to ensure that the decree, when passed, is binding and effective, and that all necessary parties are before the Court. The objections raised by the proposed defendant No.6, particularly with regard to his alleged possession, title and mutation of Khatha are matters that can be examined during the trial. These contentions are not sufficient to reject impleadment at this stage, especially the sale deed in his favour was executed during the pendency to the present suit. Allowing the application will ensure complete and final adjudication of the issues and prevent multiple proceedings. On the other hand, no prejudice will be caused to the impleaded defendant, as he will have an opportunity to contest the suit on merits. Hence, this Court is of the considered view that the proposed defendant No.6 is necessary and proper party to the suit. For the above reasons, Point No.1 is answered in the **'Affirmative'**.

9. Point No.2 :- In view of above said reasons, this Court proceeds to pass the following



ORDER

The I.A. No.VI filed by the applicant U/o 1 Rule 10 r/w Sec. 151 of CPC is hereby allowed.

The plaintiff is hereby directed to implead the proposed defendant No.6 as defendant No.6 and carry out necessary amendment in the plaint within 14 days from the date of this order.

No order as to cost.

For amendment and amended plaint.

(Dictated to the Stenographer, directly computerized by her, then corrected, printout taken, signed by me and pronounced in the open court on this the **24th day of July 2025**)

Sd/-
(Sharmila E.J.)
Addl. Civil Judge & JMFC.,
Sira.