



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 **30th** day of **July 2025**

O.S. No.316/2023

Plaintiffs : Bhavani
(By Sri. C.S., Advocate)

-V/S-

Defendants : Ramesh & others

(Def No.2 By Sri. R.R. Advocate)
(Def No.3, 1, 5, 7 By Sri. G.S.S. Advocate)
(Def No.4, 6 By Sri. M.H.S. Advocate)
(Proposed Def. No.8, 9, 10 By Sri. M.H.S. Advocate)

-V/S-

PARTIES TO THE I.A. NO. VI

Applicant/s: Proposed defendants

D.8. Bhoodanna s/o Puttarangappa
Aged about 55 years,
R/at Halenahalli village,
Kallambella Hobli, Sira Taluk.

D.9. Latha H.B. d/o Bhoodanna &
W/o Chandrashekhar,
Aged about 27 years,



R/at Antharagange palya,
5th block, Kuduru, Magadi
Taluk, Ramanagara Dis – 561101

D.10. Manjunatha H.B. S/o Bhoodanna
Aged about 25 years,
R/at Halenahalli village,
Kallambella Hobli, Sira Taluk.

-V/S-

Opponent/s: Bhavani (Plaintiff)

**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 applicants under Order I Rule 10(2) of the Code of Civil Procedure, 1908, seeking impleadment as defendants No. 8 to 10 in the present suit.

2. It is averred in the affidavit annexed that the applicants are the legal heirs of late Drakshayini, daughter of Ramachandrappa, who is alleged to have executed a Will dated 08.08.2022 in favour of the plaintiff. It is contended that the suit schedule properties are ancestral and joint family properties, and therefore, the said Ramachandrappa had no



exclusive right to execute the Will. It is further stated that the plaintiffs and the proposed parties are in joint possession and enjoyment of the suit lands, and that the Will has been created in collusion with certain defendants, without impleading the applicants. Hence, it is argued that they are proper and necessary parties to the present suit. It is also contended that no prejudice would be caused to the plaintiff if the application is allowed.

3. Per contra, the plaintiff has filed objections contending that the application is not maintainable either in law or on facts. It is pointed out that Drakshayini, the mother of applicants 2 and 3 and wife of applicant 1, died in the year 2002 and did not claim any share during her lifetime. The plaintiff argues that the applicants are not necessary parties to the present suit, which is one for declaration and permanent injunction, and if they have any claim, they are at liberty to file a separate partition suit and accordingly, the plaintiff prays for dismissal of the application.

4. Upon hearing both sides, the following points arise for consideration of this court:



i. Whether the applicants/proposed defendants No. 8 to 10 have made out the case that they are necessary parties to the suit and their 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 seeking a declaration of title and permanent injunction based on a Will allegedly executed by one Ramachandrappa, who is admittedly the maternal grandfather of applicants 2 and 3 and the father-in-law of applicant 1. The applicants claim that the suit schedule properties are joint family properties and that the Will relied upon by the plaintiff is a product of collusion and does not bind them.



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.

8. 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.

9. In the present suit, It is not in dispute that Ramachandrappa, the person alleged to have executed the Will



dated 08.08.2022 in favour of the plaintiff, is the maternal grandfather of applicants No.2 and 3 and the father-in-law of applicant No.1. The applicants claim to be the legal heirs of Drakshayini, one of the daughters of Ramachandrappa, who predeceased him. The applicants have alleged that the suit schedule properties are ancestral and joint family properties of Ramachandrappa and his children, and that the Will relied upon by the plaintiff is not valid or binding as Ramachandrappa did not have absolute rights over the suit properties.

10. The plaintiffs, however, claim that the Will was validly executed in their favour and that the applicants have no subsisting interest, especially since their mother died in 2002 without claiming any right. It is further contended that the present suit is not for partition and that the applicants are not necessary parties to a declaratory suit.

11. However, a careful reading of the pleadings and the nature of the suit reveals that the plaintiff is asserting exclusive title over the suit properties on the basis of the Will, and is seeking a permanent injunction against all others. The



validity of the Will and the nature of the property become important issues. The applicants, who are asserting rights through one of the legal heirs of Ramachandrappa, cannot be said to be total strangers to the subject matter of the suit. They have also claimed joint possession of the suit lands along with other family members.

12. Their impleadment is thus crucial to enable this Court to adjudicate the true nature and ownership of the property. Excluding them at this stage would likely lead to multiplicity of proceedings. Further, while it is true that the applicants may have the option of filing a separate suit, the courts have consistently held that the test is whether the presence of such persons is necessary to decide the real dispute. In the present case, the applicants have a direct nexus in the subject matter and their rights will be affected by the adjudication of this suit. Their impleadment will not change the nature of the suit but will assist in the adjudication of the suit in a complete manner. Further the objections raised by the plaintiff , that the said Drakshayini died in the year 2002 without claiming any share and that the applicants have no subsisting right are



matters that pertain to the merits of the suit which can only be determined upon a full-fledged trial. The further contention that the present suit is only for declaration and injunction, and that the applicants must seek their remedy by way of a separate partition suit, though relevant, does not bar impleadment where the proposed parties contend that the suit schedule properties are ancestral in nature, and that the Will is a product of collusion excluding rightful heirs, goes to the root of the plaintiff's claim of exclusive title. In such circumstances, their presence would enable the Court to adjudicate the dispute effectively and avoid inconsistent findings in the proceedings. These objections, therefore, do not justify rejection of the application at this interlocutory stage. Therefore, keeping in view the nature of reliefs sought, the close relationship of the applicants with the testator, and the fact that they are questioning the very foundation of the plaintiff's claim, this Court is of the considered opinion that the applicants are, at least, proper parties if not necessary ones to this suit. Their presence is essential to ensure that the matter is conclusively and effectively decided.



13. Point No.2 :- In view of aforesaid discussions, this Court proceed to pass the following ;

ORDER

IA No.VI filed by proposed Defendant No.8 to 10 under Order 1 Rule 10 of CPC is hereby allowed.

The proposed Defendant No.8 to 10 are permitted to come on record as Defendant No.8 to 10.

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 **30th day of July 2025**)

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