

KAUK320009642023



**IN THE COURT OF THE SENIOR CIVIL JUDGE, BHATKAL,  
AT: BHATKAL.**

**PRESENT : SRI. KURANI KANT DHAKU**

B.Com.LLB. [Spl.]

SENIOR CIVIL JUDGE & JMFC,  
BHATKAL.

**ORIGINAL SUIT No. 31/2023.**

**DATED THIS 29<sup>th</sup> DAY OF OCTOBER-2024.**

**BETWEEN:**

1. SRI. BHARAT S/O: LACHAYYA NAIK

----- **PLAINTIFF.**

**AND:**

1. SRI. RAMESH S/O: LACHAYYA NAIK

----- **DEFENDANT.**

**PARTIES TO THE I A No. IV.**

**BETWEEN:**

1. SMT. MADEV W/O: LACHAYYA NAIK AND OTHERS

----- **APPLICANTS.**

**[ PROPOSED DEFENDANTS ]**

**AND:**

1. SRI. BHARAT S/O: LACHAYYA NAIK

----- **OPPONENT.**

**[ ORIGINAL PLAINTIFF ]**

**[ BY SRI. K. R. NAIK ADVOCATE FOR PLAINTIFF ]**

**[ BY SRI. S. M. NAIK ADVOCATE FOR DEFENDANT & PROPOSED DEFENDANTS ]**

**DETAILS OF INTERLOCUTORY APPLICATION AS PER CIRCULAR NO. R.J.163/2023**  
**DATED 24.08.2023 AND WP NO. 201865/2023.**

Provision under which application is filed	U/O. I RULE 10 OF CPC
Relief sought for	IMPLEADING OF PARTIES
The date on which the application is filed	02/02/2024.
No. of application	I A No. VI.
Date on which the objections are filed by different opponents	16/02/2024.
The date of order.	29/10/2024.

Sd/-

SRI. KURANI KANT DHAKU.  
SENIOR CIVIL JUDGE, BHATKAL.

**ORDER ON I. A. No. VI.**

The present IA.No. IV is U/Order I Rule 10 of CPC filed by applicants/proposed defendants, seeking permission to implead them as defendants.

2. In the affidavit, it is stated that the plaintiff and defendants are children of the applicant No.1 and that of plaintiff has filed false suit against the defendant by creating false story. The suit schedule properties are joint family properties of plaintiff and defendants and it is stated that as per the request of the plaintiff, the present applicants and defendants have effected the partition in the suit schedule properties and in the partition, the original house

property was allotted to the plaintiff and another house was allotted to the defendant. The plaintiff and defendant were agreed to pay Rs.10,00,000/- each to applicant No.2 and 3 and for that the present applicant and defendant have executed relinquishment deed in favour of plaintiff and further, it is stated that the defendant has paid Rs. 22,00,000/- to the plaintiff and that of defendant has paid bank loan and for that the plaintiff has executed relinquishment deed in favour of plaintiff. Hence, the defendant has not cheated the plaintiff as alleged by the plaintiff. Further, it is stated that as agreed by the plaintiff and defendant, till the plaintiff and defendant have not paid Rs. 10,00,000/- each to the applicant No.1 and 3. Hence, the present applicants have also interest and entitled share in the suit schedule properties and they are necessary parties to the suit. Hence, prays to implead them as defendants.

3. On the other hand, the plaintiff has filed objections denying the contents of the application of the applicants and contended that application is not maintainable. Further, it is contended that the present applicants are not necessary parties to determine the dispute. Further, it is contended that there is no documentary evidence to show that the plaintiff has executed relinquishment deed and there is no proof to show that the very defendant has paid Rs. 22,00,000/-. Hence, the said applicants are not necessary parties to the suit. Further, it is stated that the very defendants have no right, title,

interest over the suit schedule properties and hence, they are not necessary parties and hence, the I.A. is to be dismissed with costs.

4. I have heard arguments of both sides and perused material records.

5. On perusal of entire material records, the points would arise for consideration are:

#### **P O I N T S:**

**POINT No.1: Whether the Applicants have prove that they are necessary parties to the suit?**

**POINT NO.2: What order.?**

6. On careful scrutiny of entire material records, my findings to the above points are:

#### **F I N D I N G S:**

**POINT No.1: In the Affirmative**

**POINT No.2:** As per my final order for the following:

#### **R E A S O N S:**

7. **POINT No.1** : The present I.A.No.IV is filed by the Applicants seeking permission to implead them as defendants.

8. The present suit is for declaration and partition. It is stated that the applicants and plaintiff and defendant are mother, brother and sisters and it is stated that the suit schedule property is joint family property of plaintiff and defendant. On the other hand, the defendant has denied the application of

proposed defendants. On perusal of objections of the defendant, it is seen that the defendant has not disputed the relation with the proposed defendants. In the application, it is alleged that there is earlier partition and in the partition already share of the defendant was allotted in the suit schedule property and till the plaintiff and defendant have to pay certain amount to the applicants in pursuance of execution of relinquishment deed. The defendant has denied the above said fact. So, admittedly the present suit is for partition and there is no dispute in respect of relation with proposed defendants. Hence, I am of the considered view that the present applicants are also necessary parties to the suit. Hence, answer Point No.1 in the **Affirmative**.

**9. POINT No.2.:** As reasons discussed supra, I proceed to pass the following:

**ORDER:**

**The I A No.IV U/O 1 Rule 10 r/w sec. 151 of CPC  
filed by the applicants is hereby ALLOWED.**

**The applicant No.1 to 3 are impleaded as  
defendant No.2 to 4.**

*[Dictated to the Stenographer directly on computer, typed by her, corrected by me and then pronounced in the Open Court on this 29<sup>th</sup> day of July-2024]*

Sd/-  
**(Kurani Kant Dhaku)**  
**Senior Civil Judge & JMFC,**  
**Bhatkal**