

IN THE COURT OF PRL. CIVIL JUDGE & J.M.F.C, AT HONAVAR

Dated on this the 16th day of March, 2021

Original Suit No.80/2015

PRESENT: SMT. SANMATHI S.R.
BA.L., LLM.,
Prl.Civil Judge & J.M.F.C, Honnavar

Plaintiff: Raghunath S/o Martappa Shet,

//Vs.//

Defendants: 1. Ramdas S/o Manjunath Shet and others

IA.NO.V

Applicant: Sri. Prashant S/o Chandrahas Shet,
Age: 44 years,
R/o: Jogmatt Road, Mastikatte, Tq: Honnavar.

//Vs.//

Opponents: Sri.Ramdas S/o Manjunath Shet and others.

ORDER ON IA NO.V

The applicant has filed this application U/O XXII Rule 10 R/W section 151 of CPC seeking permission to come on record as plaintiff in place of original plaintiff or as plaintiff No.2.

2. In the affidavit filed along with the application, it is stated that original plaintiff has purchased the suit schedule property bearing Sy.No.547/1B measuring 0-4-6 and Sy.No.547/2 measuring 0-4-10 by way of registered sale deed dated 15.3.2013. The defendants have objected the construction of boundary wall as such he has filed the instant suit for permanent injunction as a G.P.A. Holder of plaintiff. The original plaintiff assigned the suit schedule properties to him by way of registered sale deed dated 9.6.2017. Now he became the owner of suit schedule properties and record of rights are standing in his name. Now he want to continue the suit. For that, it is necessary for him to come on record as he has got right, title

and interest in the suit schedule properties. If the application is allowed, no injustice or inconvenience will be caused to defendants. On the other hand, if the application is not allowed, he will be put to great injustice or inconvenience. Hence, filed this application and prays to allow the application.

3. On the other hand, inspite of sufficient opportunity defendants have not filed objection to the application. Hence, the objection to I.A.No.V was taken as not filed.

4. Heard arguments on application.

5. The point arise for my consideration is as follows:-

1. Whether the applicant made out sufficient grounds to allow IA No.V?
2. What order?

6. My answer to the above points is as follows,

Point No.1:- in the affirmative

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

REASONS

7. Point No.1:- Plaintiff has filed this suit for permanent injunction restraining the defendants from constructing illegal compound wall by encroaching the suit schedule item No.1 property at its western side and to restrain them from interfering with plaintiff's peaceful possession and cultivation over the suit schedule properties.

8. The applicant has filed this application stating that original plaintiff has purchased the suit schedule properties bearing Sy.No.547/1B measuring 0-4-6 and Sy.No.547/2 measuring 0-4-10 by way of registered sale deed dated 15.3.2013. The original plaintiff assigned the suit schedule property to him by way of registered sale deed dated 9.6.2017. Now he became the owner of suit schedule property and record of rights are standing in his name. Now he want to continue the suit. For that it is necessary for him to come on record as he has got right, title and interest in the suit schedule property. On the other hand the inspite of giving

sufficient opportunity, defendants have not filed objection to the application.

9. I have perused the materials available on record. The counsel for the defendant No.3 has produced the zerox copy of sale deed dated 9.6.2017 executed by original plaintiff in favour of applicant. On perusal of the said document, it is certain that sale deed is executed by the original plaintiff in favour of applicant in respect of Sy.No.547/1B measuring 0-4-6 and Sy.No.547/2 measuring 0-4-10. As such the applicant is a necessary party to the suit. Because, the document produced by defendant No.3 shows that the applicant has purchased the property from the original plaintiff. As such, applicant is to be given permission to come on record as a party and to give opportunity to say his averments in the suit. It is pertinent to note that the defendants have not filed objection to the application rather defendant No.3 produced document to show about sale of suit schedule properties to the applicant. Considering the facts and circumstances of the case, I am of the clear opinion that it is just and necessary to permit the applicant to come on record as plaintiff No.2. As such, I am of the clear opinion that the applicant has made out sufficient grounds to allow the application, Hence, **point No.1 answered in the Affirmative.**

10. Point No.2: In view of my answer to point No.1 in the Affirmative, I proceed to pass following:-

ORDER

IA No.V filed by applicant is allowed.

Applicant is permitted to come on record
as plaintiff No.2.

(Dictated to the stenographer directly on computer, typed by her, corrected by me and then pronounced in the open court on this 16th March, 2021)

Sd/-

(Sanmathi S.R.)
Prl.C.J. and JMFC., Honnavar.