

**11-12-2017**

**Petr. by NRN/BLN**

**R-1, 5 by J.G.H.**

**R-3 by G.S.H.**

**For order**

**ORDER**

This is I.A.No.III filed by learned counsel for the applicant/the defendant No.15 in suit under Order I Rule 10 of C.P.C. seeking to implead the proposed petitioners No.2 to 11 to the proceedings.

In an affidavit filed along with I.A.No.III and in an affidavit filed on 4-12-2017, it is stated that the applicant filed the affidavit on behalf of him and other proposed parties No.2 to 11. It is also stated that the plaintiffs instituted the suit in O.S.No.14/2009 against

the proposed parties who have interest in the case. They are also necessary parties to the proceedings and they are held to entitle 1/3<sup>rd</sup> share in the suit properties. Accordingly, he has prayed to allow I.A.

Learned counsel for the respondents No.2 has filed an objection to I.A. It is contended that the applicant does not have any power to file instant application on behalf of remaining 10 persons. Hence, it is not maintainable. Accordingly, he has prayed to reject it.

Heard on both sides & perused the materials.

As per Order I Rule 10 of C.P.C., the Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon

and settle all the questions involved in the suit, be added.

As per this provision of law, this Court is having power to add parties in the suit during the pendency of the suit at any stage. The proposed petitioners No.2 to 11 were the defendants No.7, 8 & 10 to 17 in O.S.No.14/2009 as seen from the copy of the judgement. The instant petition was filed by the defendant No.9 in the suit on the basis of the said judgement passed for the relief of partition and separate possession. Therefore, the proposed parties are stated to be belonged to the same family. Though learned counsel for the respondent No.2 has raised objection that the applicant does not have any power to file application on behalf of other parties, it is to be noted that learned counsel appeared for the petitioner has been given vakalath by remaining parties. Therefore, they are necessary parties in order to adjudicate the controversy involved in the petition effectively and completely. Therefore, I am of the opinion that the petitioner has made out

sufficient grounds to allow I.A.No.III. Hence I proceed to pass the following:-

**:: O R D E R ::**

I.A.No.III filed by learned counsel for the proposed petitioners No.2 to 11 U/O.I Rule 10 of C.P.C. is hereby allowed.

The proposed parties are made as petitioners No.2 to 11 to the proceedings.

The petitioner is hereby required to carry out the amendment of the petition and furnish the amended petition forthwith.

Civil Judge, Siddapur.