

ORDER ON I.A.NO.XV

The Applicant has filed IA No.XV under Order I Rule 10(2) and Section 151 of C.P.C. praying to implead the I.A opponent as defendant No.4 in the suit and permit the plaintiff for consequential amendment of the plaint.

2. It is averred in the affidavit annexed to the application that, the plaintiff has filed the above suit seeking relief of permanent prohibitory injunction restraining the defendants, their men and servants and all persons claiming through them from interfering with the plaint 'A' schedule property. The 2nd defendant along with her brothers and sisters appears to have sold the property comprised in S.NO 33/3 measuring 1.35 acres situated in Mudar village of Karkala Taluk infavour of the opponent as per the registered Sale Deed dated 15.11.2024. In the sketch annexed to the Sale Deed, the opponent colluding with the 2nd defendant and others tampered the said sketch and drawn dotted lines showing it has road approach in the plaint 'A' schedule property. Even in the Sale Deed also deliberately it mentioned that there is an alleged 20 feet width road to reach the suit property comprised in S.No 33/3 in 1.35 acres situated in Mudar Village of Karkala Taluk.

3. Further averred that immediately after coming to know about his illegality and fabrication of alleged Sale Deed and tampering of sketch. He has submitted objection for the mutation of entries in RTC on the basis of said alleged Sale Deed. On the basis of objection filed by me before the Tahasildar proceedings in CDC DMCCR 60/2024-25 was registered and the Tahasildar after holding due enquiry passed an order dated 10.12.2024 clearly stating that as far as the alleged right of road the parties

shall redress their grievance in civil court by and holding that the FMB sketch annexed to the alleged Sale Deed is tampered. In spite of that the opponent colluding with the 2nd defendant and other defendants and particularly with an active support of the 3rd defendant has been making attempts to drive vehicles in the plaint "A" schedule property by damaging the agricultural improvements situated therein. Therefore the cause of action for the suit is continuous even as against the opponent as he is the person claiming through the 2nd defendant. Therefore the opponent is a proper and necessary party against whom the plaintiff is entitled to seek relief. His presence is also very much necessary to adjudicate the issues involved in the suit fully and finally. With these, prayed to allow the application.

4. Per contra, the learned counsel for the proposed defendant No.4 has filed objection to the application and contended that the opponent is no way connected to the dispute between the plaintiff and the defendants. The suit filed by the plaintiff in the year 2019 alleging the cause of action arose in the year 2019. The opponent had purchased the property bearing S.No. 33/3 measuring 1.35 acre of Mudar Village of Karkala Taluk from Sharadha Shetty and others for a valid consideration. The vendors of the said property are not party to this suit. Therefore the alleged cause of action will not survive against this opponent. The dispute involved in this suit is interstate between the plaintiff and defendants. Therefore the opponent is

neither a necessary party nor a proper party in this suit. The presence of the opponent is not necessary to decide the case. The application is filed only to harass the opponent. With these prays to reject the application.

5. Heard and perused the records placed before the court.

6. The following points arises for my consideration

1. Whether applicant has made out sufficient grounds that, the proposed party is necessary for effective adjudication of dispute involved in the suit?

2. What order?

7. My answer to the above points are as follows:

Point No.1: In the Affirmative.

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

REASONS

8. **Point No.1:-** The suit is one for permanent injunction restraining the defendants, their men and servants and all persons claiming through them from interfering with the plaint 'A' schedule property. The instant application filed for the purpose of impleading proposed defendant No.4. The defendant No.2 along with her brother sold property bearing Sy.No.33/3 measuring 1.35 acres in Mudar Village of Karkala Taluk to the

proposed defendant No.4 as per registered sale deed dated 15.11.2024.

9. As per the provision of Order I Rule 10 of C.P.C, it is the discretionary power of the court to add parties who ought to have been joined and strike out parties who are improperly joined in the suit whose presence before the court may be necessary in order to completely adjudicate upon and settle all the questions involved in the suit . This discretionary power can be exercised either upon or without the application by the parties.

10. Based on the aforesaid provision and material placed on record, it is clear that the proposed defendant No.4 is proper and necessary parties to the suit. Taking into consideration of facts of this case, the presence of proposed defendant No.4 is necessary for its effective adjudication of dispute involved in the suit pertaining to the relief. Hence this court answer Point No.1 in **Affirmative**.

11. **Point No.2**:- On above made discussion on point No.1, this court proceed to pass the following:

ORDER

I.A. No.XV filed by the
plaintiff/applicant U/Sec. Order I Rule

10(2) and Section 151 of C.P.C is hereby allowed.

The proposed defendant as shown in the application is ordered to be impleaded as defendant No.4 to the suit.

The plaintiff is directed to carry out amendment in plaint by impleading the defendant No.4 and furnish amended copy of the same.

For amended plaint copy by:
18.08.2025.

Addl. Civil Judge and J.M.F.C.,
Karkala .