

ORDERS ON IA NO.V FILED UNDER ORDER 1 RULE 10(2) R/W
SEC. 151 OF CODE OF CIVIL PROCEDURE

This petition is filed by the proposed defendants U/O 1 rule 10(2) R/w.S.151 of CPC., praying the Court to permit them to implead as proposed defendants No.6 to 14 as shown in the petition.

02. In the accompanying affidavit the proposed defendants have averred that, on 21.06.2008 there was a partition took place in respect of joint family properties in between the plaintiff and present defendants No.1 to 5 and other brothers and sisters in the presence of elders in the village and as per the said deed the survey sketch was not prepared and the partition deed vide S.R. No. 149/1991-92 is created will and there is no boundaries in the said will. The proposed defendants are also having the share in the said properties. If the present application is allowed no hardship or loss will cause to other side. These amongst other grounds, the proposed defendants prayed to allow the IA No.5.

03. The plaintiffs have filed their objections to IA No.5 denying entire averments of IA No.5 and contended that the present application is not maintainable and proposed defendants

No. 6 to 14 are not having any right or title over the suit schedule properties. Further contended that the proposed defendant No.8 who is unknown women and she is not a member of plaintiff and defendant family. Hence prayed to dismiss the IA No.5.

04. The defendants No.1 to 5 have filed their objections to IA No.5 denying entire averments of IA No.5 and contended that the present application is not maintainable and proposed defendants No. 6 to 14 are not related to defendant No.1 to 5 and deceased Gangamma and the said alleged partition deed dated 21.06.2008 is false, concocted and created. The suit schedule property is self acquired property of deceased Gangamma and she was under the care and protection of Shivabasppa who is the father of defendant No. 1 to 5. If the present application is allowed much loss and hardship will cause to defendants No. 1 to 5 hence prayed to reject the IA No.5.

04. Heard arguments on both sides on IA No.5.

05. Now the points that arise for my consideration are:-

1) Whether proposed defendants No. 6 to 14 have made out grounds to allow I.A.No.5?

2) What order?

06. My findings on the above point are as under:

Point No.1: Affirmative.

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

REASONS

07. Point No.1: It is the specific case of the proposed defendants No. 6 to 14 that, on 21.06.2008 there was a partition took place in respect of joint family properties in

between the plaintiff and present defendants No.1 to 5 and other brothers and sisters in the presence of elders in the village and as per the said deed the survey sketch was not prepared and the un-registered gift deed vide S.R. No. 149/1991-92 is created will and there is no boundaries in the said will. The proposed defendants are also having the share in the said properties. Hence they are the necessary parties to the suit. If the present application is allowed no hardship or loss will cause to other side.

08. The learned counsel for the proposed defendants No. 6 to 14 have produced the copy of partition deed dated 21.06.2008, which clearly goes to show that father of proposed defendants, plaintiffs and defendants No. 1 to 5 has executed the above said partition deed and all the parties have put their signatures on the said document. In a partition suit all the members of the joint family should be impleaded. Hence, the proposed defendants No. 6 to 14 have made out sufficient grounds to allow the IA No.5. Hence, I answer point No.1 in the affirmative.

09. Point No.2: In view of my findings on the above point, I proceed to pass the following:-

:: O R D E R ::

I.A.No.V filed by the proposed defendants No. 6 to 14 U/O.1, R.10(2) R/w.S.151 of Code of Civil Procedure is hereby allowed.

The proposed defendants No. 6 to 14 are permitted to brought on record as sought for.

Plaintiff is directed to amend the plaint accordingly.

Civil Judge & JMFC, Kudligi.

Date:24.10.2017.