

KABI200012412014



**IN THE COURT OF THE CIVIL JUDGE & JMFC.,**

**AT: HAGARIBOMMANAHALLI**

DATED THIS THE 08<sup>th</sup> DAY OF JANUARY 2026

: **PRESENT:**

SRI. **SAYED MOHIUDDIN URF KHAWAJA PEERAN.**, BA. LLB.,(Spl.)  
CIVIL JUDGE & JMFC., HAGARIBOMMANAHALLI.

**O.S.No.242/2014**

**PLAINTIFF/s : Smt.Anchi Sanna Durugavva**  
**W/o Mallappa,**  
Aged about : 45 years, Agriculture-coolie,  
R/o: Bannikallu Village, H.B.Halli Taluk,  
Bellary District.

**Vs**

**DEFENDANT/s : Smt.Tharihalli Kotramma W/o J.Ningappa,**  
Aged about: 40 years, Housewife, R/o: Bannikallu  
Village, H.B.Halli Taluk, Bellary District.

**I.A.No.VII**

**APPLICANT/DEFENDANT : Smt.Tharihalli Kotramma**  
**W/o J.Ningappa,**

(Rep. by Sri. **S.B.V.**, Advocate)  
V/s

**RESPONDENT/ PLAINTIFF: Smt.Anchi Sanna Durugavva**  
**W/o Mallappa,**

(Rep. by Sri. **A.K.**, Advocate)

**:ORDER ON I.A.No.VIII FILED BY THE DEFENDANTS UNDER  
ORDER I RULE 10 of CPC:**

The defendant has filed the above said I.A.No.VIII under Order I Rule 10 of CPC to implead the proposed defendants as defendant No.2 to 9 in the present suit.

**2.** In the accompanying affidavit to the said I.A. it is stated by the defendant that, proposed defendant No.2 to 5 are his sons and daughter. The proposed defendant No.6 to 9 are his relatives. The plaintiff Balavva has filed O.S.No.114/2024 against him and 8 others before this Hon'ble court. The said suit is pending for consideration. The proposed defendants are the necessary parties to the present suit. Presence of the proposed defendants is necessary for passing the effective decree. Hence he prays to allow the application.

**3.** To the said application the plaintiff has filed his objection and denied the contention of the defendants. He further contended that reasons assigned in the application are false. The suit schedule property originally belongs to government, the government has assigned the patta to the plaintiff. With an

intention to drag on the proceedings the defendant has filed the false application. Hence he prays to dismiss the same.

4. The advocate for defendant has filed the written arguments. perused the same. Heard the arguments of plaintiff side and perused the records.

5. The following points arise for my consideration:

**1. Whether the defendant has made out proper grounds to allow the I.A.No.VIII?**

**2. What order?**

6. My answers to the above points are as follows:

Point No.1 : In the **NEGATIVE**

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

### **REASONS**

7. **Point No.1**:- The present suit is filed by the plaintiff against the defendants for the relief of declaration of title and permanent injunction with respect of suit schedule property. When the case was posted for further examination in chief of DW1 to 3 the defendant has filed the present application to implead the proposed defendants. The plaintiff has opposed the said application by filing the objections. In the reported decision **(2022)**

**17 SCC 286 Sudhamayee Pattanaik and others V/s Bibhu Prasad Sahoo and others** in **para No.9** of the said decision the **Hon'ble Supreme Court of India** held as under;

**“9. At the outset, it is required to be noted that the defendants in the suit filed application under Order 1 Rule 10 CPC and prayed to implead the subsequent purchasers as party defendants. The suit is for declaration, permanent injunction and recovery of possession. As per the settled position of law, the plaintiffs are the dominus litis. Unless the Court suo motu directs to join any other person not party to the suit for effective decree and/or for proper adjudication as per Order 1 Rule 10 CPC, nobody can be permitted to be impleaded as the defendants against the wish of the plaintiffs. Not impleading any other person as the defendants against the wish of the plaintiffs shall be at the risk of the plaintiffs. Therefore, subsequent purchasers could not have been impleaded as party defendants in the application submitted by the original defendants, that too against the wish of the plaintiffs.”**

**8.** In the above said decision the Hon'ble Supreme Court of India clearly held that the plaintiff is the dominus litis, unless the

Court suo-motu directs to join any other person not party to the suit for effective decree and/or for proper adjudication, as per Order 1 Rule 10 CPC, nobody can be permitted to be implead as the defendants against the wish of the plaintiffs, and further held that not impleading any other person as the defendants against the wish of the plaintiffs shall be at the risk of the plaintiffs. As stated above in the present case on hand the defendant has filed the above said application to implead the proposed defendants in the present suit as defendant No.2 to 9. The plaintiff has opposed for the same and he prays to dismiss the application. The plaintiff has filed the present suit for the relief of declaration of title and permanent injunction with respect of suit schedule property. According to the plaintiff she is the absolute owner and in possession and enjoyment of the suit schedule property and the defendant has no manner of right, title and interest over the suit schedule property. The contention of the defendant is that, the defendants is the owner of the suit schedule property and land bearing Sy.No.490 measuring 2.37 acres, in all the defendant is in possession and enjoyment of the 5.37 acres. Now the defendant has filed the above said application to implead the proposed

defendant as defendant No.2 to 9. by contending that the proposed defendant No. 2 to 5 are his children and proposed defendant No.6 to 9 are his relatives. The defendant is claiming to be the owner and in possession of the suit schedule property, therefore the proposed defendants are not the necessary parties to the present suit. As per the above said reason and discussion, I am of the opinion that, the said application filed by the defendant is not maintainable. Hence, I answered **Point No.1** in the **Negative**.

**9. Point No.2**:- For the aforesaid reasons and discussions made above I proceed to pass the following: -

### **ORDER**

I.A.No.III filed by the defendant under

Order I Rule 10 of CPC., is hereby dismissed.

*(Dictated to the Stenographer, transcribed and computerized by her, corrected by me, and then pronounced in the open court on this the 08<sup>th</sup> day of January 2026.)*

**(SAYED MOHIUDDIN URF KHAWAJA PEERAN)  
CIVIL JUDGE & JMFC., HAGARIBOMMANAHALLI**