

**IN THE COURT OF SENIOR CIVIL JUDGE AND JMFC  
HAGARIBOMMANAHALLI.  
ITINERARY SITTING AT SENIOR CIVIL JUDGE  
HUVINAHADAGALI.**

**Dated this the 10<sup>th</sup> day of January 2025**

**PRESENT**

**MADHUSUDHANA D.K. B.A.LL.B.**

Itinerary sitting at Senior Civil Judge  
Huvinahadagali.

**P & SC. No.01/2022**

**Petitioner : Smt. H. Rathnamma @ Rathnavva**

**V/s**

**Respondents : Smt. Basetti Anusuyamma and  
Others**

**ORDERS ON THE IA NO.2 FILED UNDER ORDER 1 RULE  
10 OF CPC**

The Proposed Respondents No.1 to 5 have filed the above Application under Order 1 Rule 10 read with Section 151 of CPC.

2. In support of the IA No.2, the Applicant No.3 Smt. Shantha has filed her affidavit by deposing on oath for herself and also for other Applicants. She has

deposed that, the Petitioner Smt. Rathnamma has filed the above Petition to obtain Succession Certificate by claiming as Legal Heir of Late Sri. Basetti Andanappa in respect of the Properties left behind by the Deceased. The said Basetti Andanappa was died on 27.04.2019 in Huvinahadagali and he was working in the Forest Department as a Second Division Assistant. The Petitioner claims to be legally wedded wife of the Deceased. The mother of the Proposed Respondents by name Late Basetti Anusuyamma had appeared in the above Petition and filed her Objections but, during the Covid-19 period, the said Basetti Anusuyamma was died on 01.05.2021. After the death of their Mother, the Proposed Respondents are representing the Estate of Basetti Andanappa as the Legal Heirs of the Deceased. The Late Brother of the Proposed Respondents was never married the Petitioner and the Petitioner has never lived as the wife of the Deceased. The Deceased was having Immovable Properties and also Death Benefits accrued on his death and therefore, as the Class-II Heirs, the Proposed Respondents are necessary Parties to the Petition. For these reasons, the Proposed Respondents pray for allowing their IA No.2.

3. The Petitioner has filed her detailed Objections to the IA No.2. She has contended that, she is the Legally Wedded wife of the Deceased and since the Proposed Respondents are claiming as the Class-II Heirs, the wife of the Deceased being the Class-I Heir, the Proposed Respondents are not necessary for the above Proceedings and therefore, she prays for dismissal of the IA No.2.

4. The Petitioners have examined the Applicant No. 3 as the PW1 on their IA No.2 and they have got marked Ex.A1 to Ex.A4.

5. The Petitioner's Counsel and the Counsel for the Applicants are heard on the IA No.2. The Applicants have relied on the Judgments reported in **1) AIR 2010 SC 344, 2) HCR 2014 KANT 43 and 3) AIR 1962 SC 232.**

6. On appreciation of facts and Legal Aspects involved in the above Application, the Points that arise for my consideration are as follows:

**POINTS**

**1) Whether the Proposed Respondents are necessary Parties to the above Petition?**

**2) What Order?**

7. Now, My answers to the above Points are as follows:

**ANSWERS**

**POINT NO.1 : In the Negative**

**POINT NO.2 : As per the final order, for the following:**

**REASONS**

8. **POINT NO.1 :** The Proposed Respondents have contended in their IA No.2 and in the affidavit of the PW1 of the IA No.2 that, the Petitioner Smt.Rathnamma @ Rathnavva is not the Legally Wedded wife of the Deceased Basetti Andanappa. The Cause Title of the Petition shows that, there are already 3 Respondents in the above Petition and the said 3 Respondents are Basetti Veerabhadrappa, Basetti Shivakumar and Basetti Veeranna. The said Respondents No.1 to 3 on Record are represented by the

very same Advocate through whom the Proposed Respondents have filed the IA No.2 by seeking impleading them as Additional Respondents as the Class-II Heirs. But, the PW1 of the IA No.2 Smt.Shantha has produced and marked only Ex.A1 to Ex.A4 in her evidence. The said Ex.A1 to Ex.A4 are reports of the Deputy Tahsildar and Revenue Inspector dated 05.06.2023, 07.06.2023 and Petition Copy in P & SC No.01/2020. Those Documents come into existence after registration of this Petition and those Documents marked by the Applicants does not show the alleged relationship between the Deceased Basetti Andanappa with the Applicants of the IA No.2. The Applicants of the IA No.2 have not marked any Genealogical Tree issued by the Revenue Department to show that, they are the surviving Family Members of the Deceased Basetti Andanappa. It is the contention of the Proposed Respondents that, the Deceased Basetti Andanappa was not married and the Petitioner is not his Legally Wedded wife. The Record shows that, the Deceased was died on 27.04.2019 and during the cross-examination of the Applicant No.3/PW1, the Petitioner's Counsel has got marked Ex.R1 by way of confrontation. The said Ex.R1 is the Death Certificate of the Deceased Basetti

Andanappa and the details in the said Document show that, the Petitioner Smt. Rathnavva is the wife and Basetti Anusuyamma is the Mother of the Deceased. The Ex.R1 was issued on 15.05.2019 and therefore, the said Death Certificate come into existence much earlier in time than filing of this Petition in the year 2022. Therefore, as of now, the Ex.R1 shows that, the Petitioner is the wife of the Deceased and since the Respondents No.1 to 3 are already on Record and they are already represented by the very same Advocate engaged by the Proposed Respondents, the on Record Respondents No.1 to 3 can effectively contest the above Petition and they can prove that, the Petitioner is not the wife of the Deceased. After contest of the above Petition, if it is proved that, the Petitioner is not entitled for obtaining Succession Certificate on the death of the Deceased Basetti Andanappa, this Court will only dismiss the Petition and this Court can not issue any Succession Certificate in favor of the Respondents as there was no claim for the same by the on Record Respondents. In other words, the Respondents have not filed any Petition for obtaining Succession Certificate on the death of Basetti Andanappa and the on Record Respondents and Proposed Respondents are seeking to

contest the Petition of the Petitioner. Therefore, as of now, the Proposed Respondents No.1 to 5 appears not to be necessary Parties in this Petition as the on Record Respondents No.1 to 3 being the alleged Brothers of the Proposed Respondents, they can effectively contest the Petition. For these reasons, I do not see any reasons to allow the IA No.2 of the Proposed Respondents. Therefore, ***the Point No.1 is answered in the Negative.***

9. **POINT NO. 2 :** For the above discussion, I proceed to pass the following:

**ORDER**

***The IA No.2 of the Proposed Respondents filed under Order 1 rule 10 of CPC is hereby dismissed.***

*( Dictated to the Stenographer directly on computer, corrected and signed by me and then pronounced in the open Court on this 10<sup>th</sup> day of January, 2025)*

Sd/-  
**MADHUSUDHANA D K**  
Itinerary Senior Civil Judge  
Huvinahadagali.