

IN THE COURT OF THE ADDL.CIVIL JUDGE, BASAVANA-BAGEWADI

PRESENTS

Sri. Shivaraju H.S.

B.A.L., L.L.B,

Addl.Civil Judge, Basavana-Bagewadi

O.S.No.420/2013

DATED THIS THE 7TH DAY OF SEPTEMBER, 2019

PLAINTIFF : Shankar S/o Hubu @ Hubappa
Lamani

Versus

DEFENDANTS : Chandrappa S/o Hubappa
Lamani and others

IA No.XXIV

**PROPOSED DEFENDANTS Nos.11 to 13/
APPLICANTS:**

1. Shrikant S/o Gangadhar Nayak @
Lamani
Age: 50 years, Occ: Agriculture
2. Premabai W/o Gangadhar Nayak @
Lamani
Age: 80 years, Occ: Household
Both R/o- Kudagi Tanda
Basavana-Bagewadi Taluka.
3. Mahadevi W/o Gopal Chavan
Age: 52 years, Occ: Household
R/o- Maradagi Tanda
Basavana-Bagewadi Taluka

(By Sri.G.S.Kadasidd, Advocate)

Versus**PLAINTIFF/
OPPONENT :**

Shankar S/o Hubu @ Hubappa
Lamani

Age: 53 years, Occ: Agriculture
R/o- Rehabilitation Center Chimmalagi
village, Basavana-Bagewadi Taluka

(By Sri.D.S.Pawar, Advocate)

ORDER ON IA No.XXIV

The The applicants/proposed parties have filed this application under Order 1 Rule 10 (2) of CPC, seeking implead them as defendant Nos.11 to 13 in the suit.

2. The proposed defendant No.11 in the affidavit stated that, he is well acquainted with the facts and parties of the suit. Proposed parties are children and wife of defendant No.2's father. Their father had purchased suit land bearing CB No.413 measuring 06 acres 13 guntas from defendant No.1. The proposed parties and defendant No.2 have filed suit at OS No.98/2013 is pending before Hon'ble Sr.Civil Judge, B.Bagewadi. Until final disposal of the same, defendant No.2 is not owner and he cannot claim his

ownership over the said land. They being children and wife of Gangadhar Nayak are also necessary parties to the suit. It is also stated that, if the application is not allowed great loss would be caused to them, on the other hand if application is allowed no loss or hardship would be caused to the plaintiff. Hence, applicants/proposed parties prayed for.

3. The plaintiff submits, his objection of IA No.XXIII may be considered as objection to IA No.XXIV. In the objection, it is contended that, the proposed parties are noway concerned to the suit nor suit property. They are not family members. Now OS No.98/2013 pending before the Hon'ble Sr.Civil Judge, B.Bagewadi for evidence, the proposed parties under the impression that they may loose the case. Hence, filed this false application. The plaintiff has got half share in the suit property. To engulf the same defendant No.1 colluding with his son-in-laws falsely created ME No.6844. Hence, prayed to reject the application.

4. Heard both the Counsels on application and perused the entire records of the suit.

5. Upon hearing arguments and on perusal of materials placed on record, the following Points arise for consideration:

P O I N T S

1. Whether the applicants/proposed parties have made out sufficient grounds to allow the application ?
 2. What Order ?
6. My findings to the above Points are as under:

Point No.1 : In the Affirmative.

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

R E A S O N S

7. **Point No.1**:-Originally the plaintiff has filed this suit for the relief of partition and separate possession.
8. Herein the suit proposed parties are contending that, they are wife and children of Gangadhar Nayak @ Lamani who is father of defendant No.2. Suit land purchased in the name of defendant No.2 as he being elder son in the family. The proposed parties are having right and interest over the suit land, therefore they are proper necessary parties to the suits. No doubt land bearing CB No.413 measuring 06

acres 13 guntas is also subject matter of the suit. Rights of the proposed parties has to be adjudicate upon considering their defense, before that, they have to implead as proposed defendant Nos.11 to 13, otherwise it would amount curtailing their liberty to participate in the proceeding. On the other hand it is only contention of the plaintiff that, proposed parties are noway concerned to their family as well as suit properties. However, the said contention of the parties is to be adjudicate after full fledged trial. Without providing opportunity to the proposed parties it cannot be adjudicated. Therefore, the proposed parties are also necessary parties to the suit. Hence, in the interest of justice and equity, I am of the opinion that it is just and proper to consider the application filed by the proposed parties to put forth their case. Hence, I answer Issue No.1 in the affirmative.

9. **Point No.2:-** For the reason assigned above, this Court proceeds to pass the following :

ORDER

I.A.No.XXIV filed by the Applicants/proposed parties under Order I Rule 10 (2) of CPC is hereby allowed.

Accordingly the proposed parties are permitted to come on record as defendant Nos.11 to 13.

The plaintiff is directed to carry out necessary amendment.

(Dictated to the Stenographer directly on the computer typed by him, corrected and pronounced by me in the open court on this the 7th day of September, 2019).

(Shivaraju H.S.)
Addl.Civil Judge
Basavana- Bagewadi