

KAYG210000592017



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

DATED THIS THE 18TH DAY OF JUNE 2025

Present: Smt.Hema Pastapur,B.A., LL.B

SENIOR CIVIL JUDGE & JMFC., SHAHAPUR.

O.S.No.11/2017

Smt. Sushilamma & Anr V/s Venkatreddy & Ors

I.A. No.XXII Cause Title

- Plaintiffs:**
1. Smt. Sushilamma W/o Subba Reddy, Age: 60 years, Occ: H.H, R/o Korthakunda village, Tq & Dist Raichur.
 2. Smt.Chandrakanthamma @ Chandramma W/o Ammen Reddy, Age: 50 years, Occ: H.H, R/o Hirebudur village, Tq: Devadurga Dist. Raichur.

(By Sri. R.M.H., Advocate).

V/s

- Defendants:**
1. Venkatreddy S/o Late Shankrappa Gouda @ Shankrappa Police Patil, Age: 63 years, Occ: Agri.
 2. Mallikarjungouda S/o Late Shankrappa Gouda @ Shankrappa Police Patil, Age: 60 years, Occ: Agri.
 3. Shankargouda S/o Venkat Reddy, Age: 35 years, Occ: Agri.
 4. Smt. Laxmi W/o Venkat Reddy, Age: 58 years, Occ: Household.

5. Suresh S/o Venkat Reddy, Age: 32 years, Occ: Agri.
6. Smt. Manjula W/o Mallikarjuna, Age: 55 years, Occ: Agri & H.H.
7. Sharnagouda S/o Malikarjuna, Age: 32 years, Occ: Agri.
8. Naveen Kumar S/o Mallikarjuna, Age: 28 years, Occ: Agri.

Defendants No.1 to 8 are all R/o Kodal village, Post: Bendegambale, Tq: Shahapur, Dist. Yadgir.

9. Smt. Saroja W/o Shivangouda Police Patil, Age: 50 years, Occ: H.H, R/o Guntral village, Tq: Devadurga, Dist. Raichur.
10. Shankarappa S/o Timmayya Vaddar, Age: 50 years, Occ: Agri, R/o Kodal, Tq Shahapur, Dist. Yadgir.
11. Pramila W/o Buddangouda Patil, Age: 45 years, Occ: H.H., & Agri, R/o Kodal, Tq: Shahapur, Dist. Yadgir.
12. Chandrappa S/o Basappa, Age: 60 years, Occ: Agri.
13. Sugappa S/o Basappa, Age: 55 years, Occ: Agri.
14. Mareppa S/o Basappa, Age: 50 years, Occ: Agri.
15. Hanumantappa S/o Basappa, Age: 45 years, Occ: Agri.
16. Veerupanna S/o Basappa, Age: 55 years, Occ: Agri.

All are R/o Kodal village, Tq: Vadagera, Dist. Yadgir.

17. Shekharappagouda S/o
Veerupakshappagouda, Age: 50 years,
Occ: Agri.
18. Parvathreddy S/o
Veerupakshappagouda, Age: 50 years,
Occ: Agri.
19. Somappagouda S/o
Veerupakshappagouda, Age: 48 years,
Occ: Agri.
20. Basamma W/o Ambregouda Mali Patil,
Age: 45 years, Occ: Agri, R/o Shanbhal,
Tq Sindanoor, Dist. Raichur.

(Defendants No.1 to 9 by Sri. S.S., Advocate)

(Defendants No.10 and 11 by Sri.S.S.K., Advocate)

(Defendants No.12(a), 13 to 15, 17 and 20 Exparte)

(Defendant No.16 by Sri. B.R., Advocate)

Proposed

Defendant No.21: Siddangouda S/o Siddalingappa
Age: 66 years, Occ: Agri, R/o Kodai
villager, Tq: Wadagera, Dist. Yadgir.

**(Proposed Defendant No.21 by
Sri. S.V.K., Advocate)**

:- ORDER ON I.A.NO.XXII:-

1. That, the Proposed defendant No.21/Third party petitioner has submitted the petition under Order 1 Rule 10 of Civil Procedure Code, to implead him in present suit. That, the proposed defendant No.21 has pleaded that

previously his father was the owner and possessor of the suit lands bearing Sy.No.129 measuring 11 guntas and Sy.No131/8 measuring 06 acres 11 guntas of Kodai village and after the death of his said father he became the owner and possessor of the said suit lands.

2. That, the proposed defendant No.21 has further pleaded that the plaintiffs and defendants are no way concerned to the suit properties in any capacity and they have not impleaded him in present case and at about one week back by the villagers he came to know about the present suit.

3. That, the proposed defendant No.21 has further pleaded that he is a necessary party to the suit and for proper adjudication of the matter it is very much necessary for him come on record.

4. That, on behalf of the plaintiffs, the plaintiff No.2 has submitted objections to said application and refuted all the contentions of the proposed defendant No.21 and has pleaded that, the suit properties are no way concerned to the proposed defendant No.21. That, the said plaintiff has

further contended that the defendants colluding with the said proposed defendant No.21 have got filed this application and if the proposed defendant No.21 has got any right and interest over the suit properties he is at liberty to file the separate suit. Hence, the proposed defendant No.21 is not a necessary party to the present suit. Hence, prayed for rejecting the said application.

5. That, the defendants No.1 to 8 have submitted for allowing the I.A.No.XXII.

6. That, I have heard arguments and perused the materials placed on record. That, the following points arise for My consideration and determination:-

1. Whether the proposed defendant No.21 has made out the grounds that he is the necessary party to the suit ?

2. What order ?

7. That, My answer to the aforesaid points are as under :-

Point No.1:- In the **AFFIRMATIVE**.

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

:- R E A S O N S :-

8. **Point No.1:-** That, the proposed defendant No.21 has contended that originally his father was the owner and possessor of the said suit lands and after his death he became the owner and possessor of the suit properties and he is a necessary party to the suit. That, the plaintiffs have refuted the said contentions of the proposed defendant No.21.

9. It is pertinent to note here that, a necessary party is a person who ought to have been joined as a party and in whose absence no effective decree could be passed. That, Order 1 Rule 10 (2) of Civil Procedure Code, grants the power to add or remove the parties to a suit at any stage of the proceedings. That, this is done when a person who should have been joined is not, or when the Court cannot fully address all questions in the suit without their presence. That, the Court discretion in this matter allow for fair, and complete resolution of disputes.

10. It is to be noted here that, the present suit is one for

partition and separate possession. That, the proposed defendant No.21 is claiming that originally his father was owner of the said properties and after his death he became the owner and possessor the suit lands. It is to be noted here that, in present case the proposed defendant No.21 becomes necessary party to the suit and without impleading him no effective decree could be passed. That, the proposed defendant No.21 has proved that, he is a necessary party to the suit. Hence, Point No.1 is answered in the **AFFIRMATIVE.**

10. **Point No.2:-** That, as discussed on point No.1, I proceed to pass the following :-

:- O R D E R :-

That, the I.A.No.XXII filed by the proposed defendant No.21 is hereby allowed.

That, the proposed defendant No.21 is permitted to come on record.

That, the plaintiffs are hereby directed to carry out the amendment and file amended plaint.

(Dictated to the stenographer, typed by her, corrected by me and then pronounced in the open Court on this the 18th day of June 2025).

(Hema Pastapur)
Sr. Civil Judge & JMFC.,
Shahapur.