

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

Dated this the 28th day of June 2025

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

SENIOR CIVIL JUDGE & JMFC, SHAHAPUR

OS No.170/2023

Plaintiff: Basavaraj S/o Shivarajappa Aspalli,
Age, 45 Years, Occ.Aгри,
R/o Devinagar, Shahapur,
Tq. Shahapur, Dist. Yadgir.
(By Sri.S.V.K., Advocate)

Defendant: Mohammed Ismail S/o Munnavar
Sab Mirajad (Mehtari), Age 78
years, Occ.Aгри, R/o Village Sagar,
Tq. Shahapur, Dist. Yadgir.
(Exparte)

Proposed Defendant No.2

Mohammed Salar S.i Gulam Rasool,
Age 38 years, Occ. Aгри,
R/o. Sagar, Tq. Shahapur, Dist. Yadgir.

(By Sri.S.S., Advocate)

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Order on IA NO.II

That, the proposed defendant No.2/ applicant filed the application U/o I Rule 10 R/w Sec. 151 of CPC, with a prayer to implead him in present suit.

2. That, the applicant has pleaded that his father had filed the suit in OS No.23/2010 against the defendant for

partition and separate possession and the said suit was decreed by the Court on 31-10-2015 and allotted 1/6th share in his father. That, this applicant has further averred that the defendant therein had challenged the said Judgment and Decree in RA No.1/2016 on the board of the Hon'ble Dist. & Sessions Judge, Yadgir and Hon'ble of Appellate court had dismissed the said appeal.

3. That, against the said order the said defendant had preferred the RSA No.200189/2020 and the same is pending for adjudication and he filed FDP No.6/2020 before this Court which is also pending for consideration.

4. That, this applicant has further contended that, he got share in the suit land bearing Sy.No.287/1A and in view of the same he becomes a necessary party to the suit.

5. That, the plaintiff denying all the contentions of the said applicant has submitted his objections and he has contended that the present suit is one for Specific Performance of Contract and Perpetual Injunction and moreover, under Mohammadan Law all the persons have got shares as per the Rules. Hence, prayed for rejecting the said application.

6. That, I have heard the arguments and perused the materials placed on record.

7. That, the following points arise for the consideration and determination.

1. Whether the applicant has made out the grounds that he is a necessary party to the suit?

2. What order?

8. That, My answer to the aforesaid points are as under;

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

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

REASONS

11. **Point No.1:** That, the applicant has contended that, he is a necessary party to the suit and his rights are involved in the said property.

12. It is to be noted here that, the present suit is one for Specific Performance of Contract and Perpetual Injunction. That, if at all the applicant is having any right in the said property then he is at liberty to file separate suit and under Mohammadan law shares of all persons are fixed. Hence, the present application is not maintainable. **Hence, Point No.1 is answered in the NEGATIVE.**

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

ORDER

That, the application filed by the
proposed defendant No.2/applicant in IA No.II
is hereby rejected.

(Directly dictated to the stenographer, typed by her, corrected by me and then pronounced in the open Court on this 28th day of June, 2025).

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

