



NC: 2026:KHC:12332
WP No. 5659 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

WRIT PETITION NO. 5659 OF 2021 (GM-CPC)

BETWEEN:

1. SMT. B.JAYALAKSHMI
W/O LATE SRI.S.SOMU,
AGE ABOUT 55 YEARS,
2. SRI. S.PRASHANTH
S/O LATE SRI.S.SOMU,
AGE ABOUT 40 YEARS,
3. SRI. S.DEEPAK
S/O LATE SRI.S.SOMU,
AGE ABOUT 38 YEARS,
4. SMT. S.LEENASHREE
D/O LATE SRI.S.SOMU,
AGE ABOUT 35 YEARS,

ALL ARE C/O SIDDAIAH AUTO GARAGE,
SITUATED IN SY.NO.30/3 AND SY. NO.29,
YEDIYUR, NAGASANDRA VILLAGE,
PRESENTLY 14TH MAIN, SHANTINAGAR,
TYGARAJANAGAR, BENGALURU-560 028.

...PETITIONERS

(BY SRI. R.B.SADASIVAPPA., ADVOCATE)

AND:

1. SRI. B.KESHAVA MURTHY
S/O LATE SRI.P.BELURAPPA,
SINCE DECEASED BY HIS LR'S,



- 1(a) SMT. KANTHAMANI
W/O LATE SRI. B.KESHAHA MURTHY,
AGED ABOUT 56 YEARS,
- 1(b) SMT. RAJANI.K
D/O LATE SRI. B.KESHAHA MURTHY,
AGED ABOUT 30 YEARS,
- 1(c) SRI. BHARATH KUMRA.K.
S/O LATE SRI.B.KESHAHA MURTHY,
AGED ABOUT 28 YEARS,

THE RESPONDENTS 1(a) TO 1(c) ARE
R/AT "MATHRUSHREE NILAYA"
NO.74, 5TH CROS, PALMSRING LAYOUT,
DODDAKALLASANDRA POST,
GUBBALALA GATE,
KANAKAPURA MAIN ROAD,
BENGALURU-560 062.

2. SMT. B.VANAJAKSHI
W/O LATE SRI. SHIVALINGA NAIK,
AGE ABOUT 67 YEARS,
R/AT NO.30, YELACHANAHALLI,
KANAKAPURA ROAD.
BENGALURU – 560 078.
3. SMT. B. BHAGYA
WO SRI. R.ANANDA
AGE ABOUT 65 YEARS,
R/AT NO.379, 1ST STAGE,
5TH BLOCK, 5TH MAIN ROAD,
H.B.R.LAYOUT, BENGALURU-560 043.
4. SRI. B.PRAKASH KUMAR
S/O LATE SRI P.BELURAPPA,
AGE ABOUT 58 YEARS,
R/AT NO.3, 6TH "A" CROSS,
TALACAVERY LAYOUT,
AMURTHAHALLI,



BYATARAYANAPURA,
BENGALURU-560 064.

5. SMT.B.SHAMALA
W/O SRI.NEELAKANTA,
AGE ABOUT 47 YEARS,
R/AT NO.02, YELACHENAHALLI,
BEHIND PREMIUM, PETROL BUNK,
KANAKAPURA MAIN ROADM,
BENGALURU-560 078.
6. SMT. SAROJA.B
W/O SRI.R.VASANTHAKUMAR,
AGE ABOUT 45 YEARS,
R/AT NO.17/1, 2ND MAIN ROAD,
NEW GUDDADAHALLI,
MYSORE ROAD,
BENGALURU-560 026.
7. SMT. NARASAMMA
W/O LATE SRI. SATHAYANARAYANA,
AGE ABOUT 57 YEARS,
8. SMT. S.SOUMYA
W/O SRI.LOKESH,
AGE ABOUT 30 YEARS,
9. SMT. S.RAMYA
W/O SRI.NARENDRA,
AGE ABOUT 28 YEARS,
10. KUM. JYOTHI
D/O LATE SRI.SATHYANARAYANA,
AGE ABOUT 25 YEARS,

RESPONDENTS 7 TO 10 ARE
R/AT NO.377, 5TH CROSS,
CHENNAKESHAVA NILAYA, SHABARI NAGAR,
BYATARAYANAPURA, BELLARY ROAD,
BENGALURU-560 092.

...RESPONDENTS



(BY SRI. PRADEEP.H.S., ADVOCATE FOR R2 TO R10;
R1(a) TO R1(c) ARE SERVED AND UNREPRESENTED)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED ORDER DTD.30.11.2018 VIDE ANNEXURE-D PASSED BY THE 34TH ADDITIONAL CITY CIVIL AND SESSIONS JUDGE CCH-35 BENGALURU ON I.A.NO.1/2017 IN O.S.NO.1647/2012, CONSEQUENTLY ALLOW THE I.A. NO.1/2017 FILED BEFORE THE 34TH ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, CCH-35 BENGALURU ON I.A. NO.1/2017 IN O.S.NO.1647/2012 AND PERMIT THE PETITIONERS TO COME ON RECORD AS ADDITIONAL DEFENDANTS.

THIS WRIT PETITION, COMING ON FOR HEARING AND FINAL DISPOSAL, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL ORDER

1. The present petition seeks to challenge an order dated 30.11.2018, passed by the learned 34th Additional City Civil and Sessions Judge, (CCH-35), Bengaluru, on I.A.No.1/2017 in O.S.No.1647/2012 [hereinafter referred to as the "Impugned Order"]. By the Impugned Order, an application under Order I Rule 10(2) read with Section 151 of the Code of Civil Procedure, 1908, [hereinafter referred to as the "CPC"] filed by the petitioners/applicants has been dismissed with costs of Rs. 500.



2. This Court, had, on 05.12.2025, passed the following directions:

"1. Although respondents No.1(a) to (c) have been served, none appears on their behalf.

2. Learned Counsel appearing for respondents No.2 to 10 submits that he is representing the remaining plaintiffs before the Trial Court and that he will take appropriate instructions.

3. At request of learned counsel for parties, list this matter for hearing and final disposal on 12.01.2026.

4. In view of the fact that stay was granted by this Court on 22.03.2021, no further adjournment shall be granted.

5. Interim Order granted earlier to continue till the next date of hearing."

3. None appears for the respondents/plaintiffs today, despite service. Given the fact that the Impugned Order was passed more than seven years ago and that this Court, by its order dated 22.03.2021, had directed a stay of the suit proceedings in the matter, this Court deems it apposite to hear and decide the matter today.

4. The grievance of the petitioners/applicants is that they had filed an application seeking their impleadment in the



present suit, before the learned Trial Court which was rejected.

4.1. It is the case of the petitioners/applicants that although they are not the owners of the suit schedule property, they have been in occupation of the same for the last forty(40) years. The learned counsel for the petitioners/applicants contends that their father had opened a Car Garage in the suit property in the name and style of "*Siddaiah Auto Garage*", more than forty years ago and even today, they are carrying out the same business.

4.2. The learned counsel for the petitioners/applicants also contends that this aspect of they being in possession and running a Car Garage was not denied by the respondents/plaintiffs in their objections.

4.3. In addition, it is contended by the petitioners/applicants that they have also filed their separate suit, seeking declaration and permanent



injunction, being O.S.No.909/2014, in order to protect their possession of the suit schedule property.

4.4. The learned counsel for the petitioners/applicants submits that despite all these facts being on record and they filing the order sheets of the learned Trial Court before it, the learned Trial Court has dismissed the application for impleadment filed by them.

4.5. Reliance is also placed by the learned counsel for the petitioners/applicants on the judgment of the Supreme Court in the case of ***Pankajbhai Rameshbhai Zalavadia v. Jethabhai Kalabhai Zalavadiya (Deceased) Through LRs. and Ors¹***, to submit that the expression in Order I Rule 10(2) of the CPC is required to be given a liberal and wide interpretation to adjudicate all questions pertaining to the subject matter of the dispute and given the undisputed physical possession of the petitioners/applicants, their impleadment as parties would be necessary in the suit.

¹ AIR 2018 SC 490



5. As stated above, there has been no presence on behalf of the respondents/plaintiffs, despite the matter being called twice.

6. The brief facts relevant are that a suit for declaration and permanent injunction was filed by the respondent Nos.1 to 10, seeking a declaration that they are entitled to one half share in the suit schedule property and for partition of the suit property by metes and bounds. The plaint further seeks a declaration to declare that the Sale Deed executed by the defendants is not binding on the respondents / plaintiffs.

6.1. During the pendency of the present proceedings in O.S.No.1647/2012, the petitioners/applicants filed an application under Order I Rule 10(2) read with Section 151 of the CPC, seeking their impleadment, setting out that they are in physical possession and enjoyment of the suit schedule property and have also filed a suit in respect thereof. The petitioners/applicants also set out in the



affidavit annexed to the application that they are in physical possession of about 37 guntas and are running an Auto Garage in the suit schedule property for the last more than 40 years. It is further set out therein that a part of the suit schedule property belongs to one Sri. Era, S/o Sri. Muniya. It is apposite to set out the application as well as the relevant portion of the affidavit below:

"APPLICATION UNDER ORDER I RULE 10(2) READ WITH SECTION 151 OF CODE OF THE CIVIL PROCEDURE

*For the reasons and circumstances stated in the accompanying affidavit, the applicants above named pray that this Hon'ble Court be pleased to permit them to come on record as additional defendants as **the applicants are in physical possession and enjoyment of the suit schedule property and also in view of other litigations pending with respect to the same suit schedule property** and to contest the suit in the interest of justice and equity."*

[Emphasis Supplied]

AFFIDAVIT

*"....3. **I submit that my father late Sri S. Somu was running the car garage in the name and style of Siddaiah Auto Garage for more than 40 years in the suit schedule property** and after his demise in 1998, we are carrying on the same business.*

*4. I submit that **we are in physical occupation of about 37 guntas i.e.33 guntas in Sy.No.30/3 and 4 guntas in Sy.No.29 and the cars which come to the garage for repair are parked in the land bearing Sy.No.30/3 whereas in Sy.No.29, the office of the car garage is***



located and thus we are in occupation of 37 Guntas and the subject matter of the above suit is also Sy.No.30/3 of Yediyur Nagasandra Village.

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7. I respectfully submit that our presence is absolutely necessary in the above suit for effective and complete adjudication of the matter in dispute.

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10. In fact Sy.No.29 belongs to one Sri Era, s/o Sri Muniya who is not a party to the above proceedings and thus suppressing the various factors and also suppressing true facts of the suit schedule property plaintiffs has filed the above suit.

11. The plaintiffs herein are now interfering with my possession and in the business also, consequently. I am put to great harassment and loss."

[Emphasis Supplied]

7. The respondents/plaintiffs filed their objection to this application. However, they have not disputed the fact that the petitioners'/applicants' father was running a Car Garage in the suit property. It is stated in the objections that the Car Garage is not in the entire property, but in a portion of the suit property. The relevant extract of the objections are set out below:

"3. The allegation of applicant's father was running a Car Garage is not in dispute but the said Car Garage is not in the entire property but in a portion of the property. The plaintiffs will take necessary steps to



**secure the possession after final disposal of the suit,
in accordance with law."**

[Emphasis Supplied]

8. The learned Trial Court has found that the petitioners/ applicants have produced original photographs with a CD, amended rough sketch, certified copy of the order sheet in the O.S.No.909/2014 filed by them as well as certified copy of the order sheet in another suit filed by a third party, claiming rights over the suit schedule property being S.C.No.459/2014.

9. The learned Trial Court has thereafter held that the petitioners/applicants have not produced the plaint and the written statement of the suits and that the petitioners/applicants should have been more diligent and have thus failed to prove that they are necessary and proper parties as they have not produced proper documents in support of their case. The relevant extract of the Impugned Order is set out below:

"11. Impleading applicants have produced original photographs along with C.D. Amended rough sketch,



certified copy of the order sheet in O.S.909/2014 and certified copy of the order sheet in S.C.No.459/2014. **Applicants have not produced any documents so as to exhibit as to how his father late Sri. S. Somu acquired the suit schedule property to his name. Impleading applicants have produced the rough sketch which is not original and also not a certified copy and do not show the name of late Sri. S. Somu.** Applicants have produced certified copy of O.S.No.909/2014 and certified copy of S.C.459/2014. In both the copies except few sheets of order sheets respectively, plaint, written statement etc., are not produced. Just from a bare eye sight it is difficult to make out whether the suit nos. mentioned above pertains to the suit schedule property or not. The applicants should have been more diligent in producing the documents in support of their contentions. With due respect to the rulings relied on by the applicants, they are not applicable to the present case. **Applicants have failed to prove that they are necessary and proper parties to the present suit by producing proper documents in support of their application.**"

[Emphasis Supplied]

10. This Court in the case of **Smt. Kavalkunte Geetha Bhavani & Ors. V. Sri.N.A. Krishnamurthy and others**² has while relying on the judgement of the Supreme Court in **Mumbai International Airport Private Limited Vs. Regency Convention Centre and Hotels Private Limited and Others**³ and **J.N. Real Estate Vs.**

² W.P.No.22568/2022 Order dated.30.01.2026 : NC: 2026:KHC:5340

³ (2010) 7 SCC 417



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Shailendra Pradhan and others⁴ has while discussing the law as to who is a proper party has held that a proper party is a party whose presence would enable the court to completely, effectively and adequately adjudicate upon all issues. It is apposite to set out the relevant extract below:

*"8. The question of whether a party is necessary or a proper party in terms of the provisions of Order 1 Rule 10 of the Code of Civil Procedure, 1908, is no longer res integra. The Supreme Court has, in **Mumbai International Airport Private Limited Vs. Regency Convention Centre and Hotels Private Limited and Others⁵** while discussing as to who a necessary party and who a proper party is, has held that a necessary party is a person in the absence of whom no effective decree could be passed, while a proper party is a person whose presence would enable the Court to effectively adjudicate proceedings, in the following manner:*

"14. The said provision makes it clear that a court may, at any stage of the proceedings (including suits for specific performance), either upon or even without any application, and on such terms as may appear to it to be just, direct that any of the following persons may be added as a party: (a) any person who ought to have been joined as plaintiff or defendant, but not added; or (b) any person whose presence before the court may be necessary in order to enable the court to effectively and completely adjudicate upon and settle the questions involved in the suit. In short, the court is given the discretion to add as a party, any person who is found to be a necessary party or proper party.

*15. A "necessary party" is a person who ought to have been joined as **a party and in whose absence no***

⁵ 2025 SCC Online SC 1015



effective decree could be passed at all by the court. If a "necessary party" is not impleaded, the suit itself is liable to be dismissed. A "proper party" is a party who, though not a necessary party, is a person whose presence would enable the court to completely, effectively and adequately adjudicate upon all matters in dispute in the suit, though he need not be a person in favour of or against whom the decree is to be made. If a person is not found to be a proper or necessary party, the court has no jurisdiction to implead him, against the wishes of the plaintiff. The fact that a person is likely to secure a right/interest in a suit property, after the suit is decided against the plaintiff, will not make such person a necessary party or a proper party to the suit for specific performance.

[Emphasis supplied]

9. The Supreme Court in the **Sumti Bai** case, has held that normally, in a suit for specific performance of a contract of sale of property, a stranger or a third party to the contract cannot be added as a defendant. However, where the third party has rights as a purchaser of the suit schedule property, his presence would become necessary. The relevant extract is set out below:

"9. Learned counsel for the respondent relied on a three-Judge Bench decision of this Court in *Kasturi vs. Iyyamperumal and others* - (2005) 6 SCC 733. He has submitted that in this case it has been held that in a suit for specific performance of a contract for sale of property a stranger or a third party to the contract cannot be added as defendant in the suit. In our opinion, the aforesaid decision is clearly distinguishable. In our opinion, the aforesaid decision can only be understood to mean that a third party cannot be impleaded in a suit for specific performance if he has no semblance of title in the property in dispute. Obviously, a busybody or interloper with no semblance of title cannot be impleaded in such a suit. That would unnecessarily protract or obstruct the proceedings in the suit. However, the aforesaid decision will have no application where a third party shows some



semblance of title or interest in the property in dispute. In the present case, the registered sale deed dated 12.8.1960 by which the property was purchased shows that the shop in dispute was sold in favour of not only Kapoor Chand, but also his sons. Thus prima facie it appears that the purchaser of the property in dispute was not only Kapoor Chand but also his sons. Hence, it cannot be said that the sons of Kapoor Chand have no semblance of title and are mere busybodies or interlopers.

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14. In view of the aforesaid decisions we are of the opinion that Kasturi case is clearly distinguishable. In our opinion it cannot be laid down as an absolute proposition that **whenever a suit for specific performance is filed by A against B, a third party C can never be impleaded in that suit. In our opinion, if C can show a fair semblance of title or interest he can certainly file an application for impleadment. To take a contrary view would lead to multiplicity of proceedings because then C will have to wait until a decree is passed against B, and then file** a suit for cancellation of the decree on the ground that A had no title in the property in dispute. **Clearly, such a view cannot be countenanced.**

[Emphasis Supplied]

10. A similar view has been taken by the Supreme Court in **J.N. Real Estate Vs. Shailendra Pradhan and others**[2] where after relying on the decisions in **Mumbai International Airport** case and the judgments of **Kasturi Vs. Iyyamperumal** [3] and **Sumtibai** case, it was reiterated that the Order 1 Rule 10(2) of the CPC does not pertain to the rights of a non-party to be impleaded but deals with judicial discretion to strike out or add parties at any stage of proceedings. It was further held that the Court will chose not to exercise the discretion if the Court is of the view that the impleadment will alter the nature of the suit or introduce a new cause of action. The relevant extract is set out below:

"25. In Kasturi (supra), the respondent nos. 1 and 4 to 11 respectively therein, based their claim to be added as party defendants on an independent title and



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possession of the contracted property. **In such a backdrop, while rejecting the applications for impleadment, this Court had expounded the scope of Order I Rule 10(2) CPC and laid down certain tests for determining whether a person is a 'necessary party' for the purpose of impleadment in a suit for specific performance** as follows:

(i) First, that a bare reading of Order I Rule 10(2) clearly indicates **that the necessary parties in a suit for specific performance of a contract for sale or an agreement to sell, are the parties to the contract or, if they are dead, their legal representatives,** as also persons who had purchased the contracted property from the vendor...."

[Emphasis supplied]

10.1. It was further held in the **J.N.Real Estate** case as under:

"27. While distinguishing *Kasturi* (supra), it was held in *Sumtibai* (supra) that if a third party can show a fair semblance of title or interest, he can file an application for impleadment in the suit for specific performance. The relevant observations read thus:

"13. As held in *Bharat Petroleum Corpn. Ltd. v. N.R. Vairamani* [(2004) 8 SCC 579 : AIR 2004 SC 4778] a decision cannot be relied on without disclosing the factual situation. In the same judgment this Court also observed : (SCC pp. 584-85, paras 9-12)

'9. **Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed.** Observations of courts are neither to be read as Euclid's theorems nor as provisions of a statute and that too taken out of their context. **These observations must be read in the context in which they appear to have been stated.** Judgments of courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for



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judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes. In London Graving Dock Co. Ltd. v. Horton [[1951] A.C. 737 (HL)] (AC at p. 761) Lord MacDermott observed : (All ER p. 14 C-D) [...]

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14. In view of the aforesaid decisions we are of the opinion that Kasturi case [(2005) 6 SCC 733] is clearly distinguishable. In our opinion it cannot be laid down as an absolute proposition that whenever a suit for specific performance is filed by A against B, a third party C can never be impleaded in that suit. In our opinion, if C can show a fair semblance of title or interest he can certainly file an application for impleadment. To take a contrary view would lead to multiplicity of proceedings because then C will have to wait until a decree is passed against B, and then file a suit for cancellation of the decree on the ground that A had no title in the property in dispute. Clearly, such a view cannot be countenanced."

[Emphasis Supplied]

28. This Court in *Mumbai International Airport (supra)* **was also of the view that different situations require the application of different facets of Order I Rule 10(2)** and consequently, held that there was no conflict between the decisions of this Court in *Kasturi (supra)* and *Sumtibai (supra)*. **It was reiterated that that Order I Rule 10(2) CPC did not pertain to the 'right' of a non-party to be impleaded as a party but deals with the 'judicial discretion' of the court to strike out or add parties at any stage of the proceeding. In exercising this judicial discretion, courts must act according to reason and fair play and not according to whims and caprice.**

29. It was observed that the court may exercise discretion in impleading a person who is **a 'proper party'**



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upon an application by a non-party to the suit for specific performance. If the court is of the view that the impleadment of such a proper party will alter the nature of the suit or introduce a new cause of action, it may either refuse to implead such person or order for his impleadment on certain conditions. However, even otherwise, the court would not be precluded from impleading a 'proper party' unconditionally in its discretion."

[Emphasis Supplied]

11. In the present case, it is not disputed that the petitioners/applicants have been in physical possession of the property and that they have also filed a suit, not claiming ownership, but claiming injunction against their dispossession.

12. In addition, the petitioners/applicants also contend that they have been in possession of parts of the suit schedule property for the last 40 years, and that the respondents/plaintiffs have also affirmed this contention in their objections.

13. No doubt in the present case, the petitioners/applicants have not claimed the ownership of the property. However, clearly, multiple parties have claimed ownership



and possessory rights in the suit schedule property. It was thus incumbent for the learned Trial Court to have examined these contentions prior to dismissing the present application.

14. The learned counsel for the petitioners/applicants fairly submits that he was in default in not filing the necessary documents in time, as the certified copies could not be obtained in time. However, thereafter he obtained these documents and has even annexed some of these documents before this Court by way of a memo dated 05.12.2025. The learned counsel for the petitioners/applicants submits that he may be permitted to place these documents before the learned Trial Court.

15. The Supreme Court, in the case of ***Pankajbhai's case*** has held a Court can add any one as a plaintiff or defendant if it finds that such person is a necessary or proper party so *all material issues are adjudicated in the following terms:*

"In the matter on hand, though the trial court had rightly dismissed the application under Order 22 Rule 4 of the Code as not maintainable at an earlier point of time, in our considered



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opinion, it needs to be mentioned that the trial Court at that point of time itself could have treated the said application filed under Order 22 Rule 4 of the Code as one filed under Order 1 Rule 10 of the CPC, in order to do justice between the parties. Merely because of the non-mentioning of the correct provision as Order 1 Rule 10 of the Code at the initial stage by the advocate for the plaintiff, the parties should not be made to suffer. **It is by now well settled that a mere wrong mention of the provision in the application would not prohibit a party to the litigation from getting justice.** Ultimately, the Courts are meant to do justice and not to decide the applications based on technicalities. **The provision under Order 1 Rule 10 CPC speaks about judicial discretion of the Court to strike out or add parties at any stage of the suit. It can strike out any party who is improperly joined, it can add any one as a plaintiff or defendant if it finds that such person is a necessary or proper party. The Court under Order 1 Rule 10(2) of the Code will of course act according to reason and fair play and not according to whims and caprice. The expression "to settle all questions involved" used in Order 1 Rule 10 (2) of the Code is susceptible to a liberal and wide interpretation, so as to adjudicate all the questions pertaining to the subject matter thereof. The Parliament in its wisdom while framing this rule must be held to have thought that all material questions common to the parties to the suit and to the third parties should be tried once for all. The Court is clothed with the power to secure the aforesaid result with judicious discretion to add parties, including third parties. There cannot be any dispute that the party impleaded must have a direct interest in the subject matter of litigation.** In a suit seeking cancellation of sale deed, as mentioned supra, a person who has purchased the property and whose rights are likely to be affected pursuant to the judgment in the suit is a necessary party, and he has to be added. If such purchaser has expired, his legal representatives are necessary parties. In the matter on hand, since the purchaser of the suit property, i.e., defendant no.7 has expired prior to the filing of the suit, his legal representatives ought to have been arrayed as parties in the suit while presenting the plaint. As such impleadment was not made at the time of filing of the plaint in view of the fact that the plaintiff did not know about the death of the purchaser, he cannot be non-suited merely because of his ignorance of the said fact. To do justice between the parties and as the legal representatives of the purchaser of the suit property are



necessary parties, they have to be impleaded under Order 1 Rule 10 of the Code, inasmuch as the application under Order 22 Rule 4 of the Code was not maintainable.....”

[Emphasis Supplied]

16. Given the rival claims of multiple parties, it was incumbent on the learned Trial Court to have examined these claims prior to dismissing the application of the petitioners/applicants.

17. In view of the foregoing discussions, the Impugned Order is set aside. The petition is ***disposed of***, granting the petitioners/applicants one opportunity to place on record, the relevant documents relied upon before the learned Trial Court.

18. The documents shall be produced by the petitioners/applicants before the learned Trial Court on the next date of hearing along with an appropriate affidavit.

19. The learned Trial Court shall examine the same and pass appropriate orders in accordance with law.



20. The respondents/plaintiffs are also granted liberty to file their response/objections to the affidavit and the documents filed prior to adjudication of the application.

21. It is made clear that the rights and contentions of both the parties are left open to be agitated before the learned Trial Court. All pending applications stand closed.

Sd/-
(TARA VITASTA GANJU)
JUDGE

BMV*/ KS
List No.: 1 Sl No.: 14