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**IN THE COURT OF THE IV ADDL. CITY CIVIL AND  
SESSIONS JUDGE MAYOHALL UNIT, BENGALURU  
(CCH-21)**

*Dated: This the 25<sup>th</sup> day of September 2023*

**PRESENT:**

**SRI. V. Nagaraja, LLB, LLM, PGD in CLCF.,  
IV Addl. City Civil and Sessions Judge, Bengaluru**

**O.S.No.25482/2018**

<b>Plaintiffs:</b>	<b>Mr. Rajagopala Reddy and others.</b>  (By Sri. MS – Advocate)
	<b>Vs.</b>
<b>Defendants:</b>	<b>Smt. Sarojamma and Others.</b>  (By Sri. RMC – Adv.)

**ORDER ON I.A.No.III/2023 FILED UNDER ORDER 14  
RULE 5 R/W Sec.151 OF C.P.C.**

**(This IA has been filed at the stage of defendants' evidence)**

Defendants No. 18 to 21 have filed this application  
U/o 14 Rule 5 of CPC seeking for framing/recasting of  
Addl.issue as proposed in the application.

2. The defendant No.21, in his affidavit, annexed to the application, has sworn that plaintiffs have filed this suit for partition and separate possession of their shares in the suit schedule properties by contending that, said properties come within the ambit of joint family, so the burden is upon the plaintiffs to prove joint family properties as on the date of filing of the suit. So, it is necessary to frame proposed issue, in order to adjudicate the matter. On these main grounds and other grounds specified in his affidavit, he prayed for allowing the application.

3. On the other hand plaintiffs have filed objections by opposing the application on the grounds that, in view of admitted facts, question of framing proposed Addl.Issue does not arise because, the suit schedule properties are not joint family properties but they are only joint properties of 1) Sri.Bankada Rayappa 2) Sri. Shankarappa Reddy & 3) Muniveerappa Reddy. It is further contended that, as the defendants have

admitted the facts that, above stated brothers have jointly purchased suit schedule properties under registered sale deeds dated 12.05.1959 and 29.09.1962 respectively., and when they contended that, the said properties are orally partitioned in the year 1985, then burden is upon the defendants No.1 to 6 and 21 & 22, so on considering their contentions, this court has already framed issue No.1 which is a clinching issue to resolve the real controversy between the parties. So, being so, the defendants have filed this application, at the stage of defendants evidence, only in order to protect the proceedings and to harass these plaintiffs. On these main grounds and other grounds, they prayed for dismissal of the application.

4. I have heard arguments of learned counsels.

5. Perused the records.

6. After perusal, the points that would arise for my consideration are as follows:-

**1. Whether IA No.III filed by defendants U/o 14 Rule 5 r/w 151 of CPC, seeking for framing of proposed Addl.Issue deserves to be allowed?**

**2. What order?**

7. For the above points my findings are as under:-

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

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

### **REASONS**

8. **Point No. 1:-** As I have already pointed out, the defendants No.18 to 21 are seeking for framing additional issue as proposed ie.,

**1. Whether the plaintiffs prove the existence of the Joint Family Properties as on the date of filing of the suit?**

It is significant to note, on perusal of pleadings of the both parties, the defendants have clearly admitted the facts that, Late.Sri.Bankada Rayappa, Sri.E. Shankarappa Reddy and Sri.E.Muniveerappa Reddy,

who are brothers had already got partition their Joint Family Properties under registered Partition Deed dated 31.08.1955 itself, so after said partition, status of Joint Family seavered. It is also admitted fact that, after said partition above stated brothers ie., 1) Late.Sri.Bankada Rayappa, 2) Sri.E. Shankarappa Reddy and 3) Sri.E.Muniveerappa Reddy have jointly purchased suit schedule Item No.1 & 2 under registered sale deeds dated 12.05.1959 and 29.09.1962 respectively.,

9. Whereas, now plaintiffs have filed this suit for partition of above stated jointly purchased properties as co-owners but not joint family properties(as coparcener) because, admittedly there is no existence of status of Hindu Undivided Joint Family among the above stated brothers, in view of severance of joint family status by virtue of above stated registered Partition Deed dated 31.08.1955. So, framing of proposed issue by placing burden upon the plaintiffs to prove existence of Joint Family Properties, as on the date of filing of the suit does

not arise because, there was already severance of Joint Family status which is admitted by both parties,so admitted facts need not be proved. Hence, I am of the clear opinion that, the proposed Addl.Issue does not arise for consideration. ***Hence, I hold this point in Negative.***

10. **Point No. 2:-** For the foregoing reasons discussed on point No. 1, I proceed to pass following:-

**ORDER**

***I.A.No.III/2023 filed by the  
defendants No.18 to 21 U/o 14 Rule 5 of  
CPC is hereby dismissed.***

***No order as to cost.***

*[Dictated to the Stenographer, directly on computer, after computerization, corrected, signed and then pronounced by me in the open Court on this the 25<sup>th</sup> day of September 2023]*

***[V. NAGARAJA]***

***1V Addl. City Civil & Sessions Judge,  
Mayo hall, Bengaluru.***

*Order pronounced in the open Court  
(Vide separate Order)*

**ORDER**

***I.A.No.III/2023 filed by the  
defendants No.18 to 21 U/o 14 Rule 5 of  
CPC is hereby dismissed.***

***No order as to cost.***

*IV Addl. City Civil & Sessions Judge,  
Mayo hall, Bengaluru.*