

Counsel for plaintiff present and filed memo with one document., counsel for proposed defendant No.40 absent kept by.

Again case called out by 12.15pm.

Proposed defendant No.40 and his counsel absent. Counsel for plaintiff present, on perusal of the order sheet IA No.05 is filed by the plaintiff U/o. 1 RI 10(2) of CPC., with prayer to implead defendant No.38 to 40. The proposed defendant No.40 not shown interest to address arguments on IA No.05 inspite of giving sufficient opportunities. Hence, arguments of proposed defendant No.40 on IA No. 05 taken as not addressed and posted for orders on IA No.05, kept by.

**ORDER ON IA No.05**

The application is filed by plaintiff U/o. 1 Rl 10(02) of CPC with prayer to include the proposed defendants No.38 to 40 as defendant No.38 to 40 in the suit.

In the annexed sworn affidavit, plaintiff stated that he is the absolute owner of suit property and the defendants by creating documents are claiming title to suit property. Hence, he filed suit for declaration of title and to declare the power of attorney and sale deeds on the basis of power of attorney are not binding on him. The defendant No.15 is placed Ex-parte. In the meanwhile the proposed defendant No.03(proposed defendant No.40) came near suit property in the first week of march-2021 and tried to interfere with his possession. On enquiry he came to know that, the proposed defendant No.01 and 02 (proposed defendant No.38 and 39) have executed a sale deed in favour of proposed defendant No.40 and it is created document. After death of defendant No.15 the proposed defendant No.01 and 02 claiming themselves as daughter of defendant No.15 have

created partition deed dated:21.07.2016 and on the basis of said deed the conveyed portion of suit property to the proposed defendant No.03. The said sale is not binding on plaintiff. The proposed defendants are proper and necessary parties to the suit. Accordingly, prays to allow the application.

The notice of the application to prop. Defendant No.38 to 40 is already duly served and Defendant No.38 and 39 remained absent and Defendant No.40 appeared through counsel and not filed objection to IA No.05.

The counsel for plaintiff in support of his arguments has relied upon copy of sale deed dated:24.05.2019 executed by the proposed defendant No.01 and 02 (proposed defendant No.38 and 39) in favour of proposed defendant No.03(proposed defendant No.40) in respect of property bearing No.26, BBMP Khatha No.3078/430, Site No.26, Old khatha No.430, Old Grama Thana, House List No.26, property No.19/2 at Munnekolalu Village, Varthur Hobli.

On perusal of the suit schedule property the same is in respect of agricultural land bearing Sy.No.19/2 of Munnekolalu Village, Varthur Hobli,

Bengaluru East Taluq.

According to plaintiff, the proposed defendants have created sale deed in respect of portion of suit schedule property and it is the plaintiff who is the absolute owner of suit schedule property.

On perusal of the sale deed dated:24.05.2019 stated supra it clearly shows that, the proposed defendants have entered into the said sale deed which is in respect of suit schedule property. Under the circumstance proposed defendant No.38 and 39 who have executed the said sale deed in favour of proposed defendant No.40 are proper and necessary parties to the suit. To adjudicate the real controversy involved in the suit and also in respect of the suit property the presence of these proposed defendants is very much necessary. In their absence the suit cannot be effectively adjudicated. That apart inspite of service of notice the proposed defendant No.38 and 39 not appeared before the court and the proposed defendant No.40 though appeared before the court not filed objections to IA No.05. Hence, the plaintiff has made out sufficient grounds to allow the application and to permit him to implead the proposed defendants. Accordingly,

the following:-

**ORDER**

**IA No.05** filed by the plaintiff U/o. 01 Rl 10(2) of CPC is hereby allowed.

Consequently,. Plaintiff is directed to implead proposed defendants in IANo.05 as defendant No.38 to 40 in the plaint cause title and directed to furnish amended plaint and there after office to Issue SS to defendant No.38 to 40, if PF and charges paid, returnable by 31.01.2025.

**(Anitha N.P.)**

**18.01.2025.**

**LXXIII Addl. CC & SJ, M.H. Unit,  
B'luru.(CCH-74)**