

ORDERS ON I.A FILED UNDER ORDER 1 RULE
10(2) OF CPC

The present application is filed by the plaintiff seeking permission to implead the proposed defendants as defendants in this suit. Along with the IA the plaintiff filed affidavit deposed that she is the GPA holder of plaintiff. The present suit is filed by her husband seeking relief of declaration of ownership in respect of A schedule property and mandatory injunction in respect of schedule B to E properties. According to the GPA holder of the plaintiff her husband has purchased the suit schedule A property for valuable sale consideration amount, on the basis of sale deed records are standing in the name of her husband. At the time of filing of this suit, the plaintiff did not know the alleged transaction between the defendants and proposed defendants. After filing of written statement

by the defendants No.1 to 4 the plaintiff came to know that the proposed defendants are the alleged purchasers of portion of the property. Therefore, they are the necessary and proper parties to adjudicate the issue involved in this suit. Hence, she sought to allow the IA.

2. On the other hand the the except proposed defendant No.9 other proposed defendant did not filed objections. The proposed defendant No.9 filed the objections denying the averments made in the affidavit filed by the GPA holder of the plaintiff. Further the proposed defendant No.9 contended that she has already sold the suit schedule property about 15 years back to the plaintiff. Hence, the proposed defendant neither necessary parties nor proper parties. Hence, she sought to dismiss the IA.

3. Based upon the above contentions of the plaintiff and defendant No.9, following points arise for consideration of this court:

1. Whether the plaintiff has made out grounds to implead proposed defendants as defendants in this suit?
2. What order?
4. Heard the learned Advocate for the plaintiff, and proposed proposed defendant No.9. After hearing

both the sides and on due perusal of the records, the court's findings on the above points are as under:

Point No.1 : In the Affirmative.

Point No.2 : As per the final Order for the following:

REASONS

5. This is a suit filed by the plaintiff against the defendants for the relief of declaration of ownership in respect of A schedule property and also sought for mandatory injunction in respect of suit schedule B to E properties. According to the plaintiff after filing of written statement by the defendants, she came to know the alleged sale transaction between the defendants with the proposed defendants. Therefore, they are the necessary and proper parties. In the objections one of the proposed defendant has denied the averments made in the affidavit annexed to the IA. No doubt as per the case of the plaintiff the proposed defendants are the subsequent purchasers of the portion of the suit schedule property and they have illegally constructed structure in the suit schedule property. Therefore, before adjudicating the matter on merits. The claim of the plaintiff against the proposed defendant has to be decided. In the absence of proposed defendants the suit can not be adjudicated effectively. Hence, the presence of the proposed defendants are very much necessary to

adjudicate the dispute between the parties. Hence, the plaintiff has made out grounds to allow the application. Hence, **I answered point No. 1 in the Affirmative.**

6. **POINT No.2 :-** In view of the aforesaid findings on point No.1, I proceed to pass the following:

ORDER

I.A filed by plaintiff under order 1 rule 10(2) of CPC is hereby allowed.

The proposed defendants No.5 to 9 are permitted to come on record as defendants No.5 to 9.

The plaintiff is permitted to amend the plaint and furnish the amended plaint within 14 days from today.

For amended plaint 17.11.2021.

(Nagesha.C)
VI Addl. Senior Civil Judge,
Bengaluru Rural District,
Bengaluru.