

IN THE COURT OF PRL. CIVIL JUDGE, & JMFC.,AT
CHAMARAJANAGARA

Dated this 16th day of January 2025

: **PRESENT:**

SRI. VENKATESHA.N., B.A.LL.B, LL.M.,
PRL. CIVIL JUDGE & JMFC.,
CHAMARAJANAGARA

O.S. 70/2023

PLAINTIFF/s : **Khajapheer.H.A.,**
V/s

DEFENDANT/s : **State of Karnataka by**
Chief Secretary & Others,

I.A.No. IV

APPLICANT/s : **1. Khaleelulla.N,**
S/o Noor Ulla Khan,
Aged about 39 years,
No.61/3, Macca Mohalla,
Near Kaveri Water Tank,
Galipura Extension,
Chamarajanagar Town.

2. Syed Irfan,
S/o Syed Rizvan,
Aged about 38 years.
No.258, K.P.Mohalla,
Behind KSRTC,
Chamarajanagar Town.

3. Shivanna.L,
S/o Lingegowda,
Aged about 37 years.
R/at, No.3/9, Kurubara Beedi,

Galipura Village,
Chamarajanagar Town-571313.

4. Ajeemulla Sharife,

S/o Atha Ulla Shariff,
Aged about 48 years.
R/at, Ward No.3,
Sharifunnissa Mohalla, Galipura,
Chamarajanagar Town-571313.

5. Athar Mohammed,

S/o Mohammed Izan Ul Haq,
Aged about 37 years.
R/at No.12/236,
K.P.Mohalla,
Chamarajanagar Town-571313.

6. Mohammed Umar,

S/o Late Abdul jabbar,
Aged about 37 years.
R/at No.275, 11th Cross,
Hyder Ali Block,
Gousiyanagar,
Mysuru-570019.

(Proposed Defendant No.5 to 10)
(By M.C.S., Advocate)

V/s

OPPONENTS/s :

Khajapheer.H.A,

S/o Late H.K.Mohammed Anwar,
Aged about 56 years,
R/at, Handrakalli Village,
Haradanahalli Hobli,
Chamarajanagara Taluk.

(By K.B., Advocate)

i.	<i>Provision under which the application is filed</i>	<i>I Rule 10(2) of CPC</i>
ii.	<i>Relief sought for</i>	<i>To include Proposed Defendants</i>
iii.	<i>The date on which the application is filed</i>	<i>05.04.2023</i>
iv.	<i>Number of the application</i>	<i>IA.No. IV</i>
v.	<i>The date on which the objections are filed by different opponents</i>	<i>08.01.2024</i>
vi.	<i>The date on which the orders were passed on the said application</i>	<i>16.01.2025</i>

ORDER ON I.A.IV

The Applicants have filed this application under Order 1 rule 10(2) of Civil Procedure Code seeking an Order to direct the Plaintiff to implead the applicants as Defendant No.5 to 10.

2. It is contended by the Applicants that, the Plaintiff has filed the suit against the Defendants for Relief of Permanent Injunction. The suit schedule property i.e., Government Katte situated at Galipura Main Road, Kasaba Hobli, Chamarajanagar Town is a Public property and nobody have got any right over on it. RTC stands in the name of Government in respect of said property. The Plaintiff has

created the documents of Government Katte property as e-khatha No.2-1-25-39A, Ward No.2, Old property No.257 and Assessment No.257 measuring East West 21.336043 X 9.144018 in all 195.0963 square property. But the Plaintiff is mentioning wrong assessment number and try to knock of the Government property.

3. The Plaintiff has encroached the Government Katte. The said proposed Defendant filed a representation before the Deputy Commissioner to stop the illegal work on said property and vacate the same on 15.02.2023. Hence the applicants being public also interested in the suit. Hence this application.

4. On the other side, the Plaintiff has filed objection contending that, the application is not maintainable either under the provisions of law or on facts and hence it is to be dismissed in limine. It is contended that, the Plaintiff has filed only in respect of suit schedule property bearing Assessment No.257/257, Nagarasaba PID No.2-1-25-39A the vacant site. The averment stated in the application are all false. The Plaintiff has not encroached any government property. The

suit schedule property is absolute property of Plaintiff. The applicants are neither necessary party nor proper party to the suit. Hence prays to dismiss the application.

5. Heard both side Arguments.

6. The following points arise for my consideration:

1. Whether the application filed under order 1 rule 10(2) R/w Sec.151 of CPC is deserved for consideration.?

2. What order?

7. My answers to the above points are as follows:

Point No.1 : In the **AFFIRMATIVE**

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

REASONS

8. Point No.1:- The present suit is filed by the Plaintiff against the Defendant for Permanent Injunction. The applicants contend that, suit schedule property is Government property. The Plaintiff has encroached the Public property. The applicants have made representation to the concerned authorities in the Public interest. The Plaintiff has denied the said allegations. The said facts requires a full fledged trial. At

this stage this issue cannot be decided. If the applicants are permitted to contest the suit, no hardship will be caused to the Plaintiff as he will get opportunity to disprove the case of the applicants. Hence the applicants are necessary party to this suit. Hence for the aforesaid reasons Point No.1 is answered in the **AFFIRMATIVE**.

9. Point No.2:- For the aforesaid reason and discussion, I proceed to pass the following: -

O R D E R

**I.A.No.IV filed by the Applicants
under Order 1 Rule 10(2) R/w Sec.151
of CPC is hereby allowed.**

**The Plaintiff is directed to
implead the Applicants as Defendant
No.5 to 10 in the suit.**

No order as to cost.

(Dictated to the Stenographer on computer and computerized by her, corrected by me and then pronounced in the open court on this the 16th day of January 2025)

(VENKATESHA.N)
PRL. CIVIL JUDGE & JMFC.,
CHAMARAJANAGARA.