

KABG040001062013



28.08.2024

O.S.No.45/2013

ORDERS ON I.A.NO.XXV

This application is filed U/O. XXII Rule 3 R/w. Sec.151 of C.P.C., by counsel for plaintiff. In the affidavit accompanying the application, the L.Rs. of plaintiff have prayed for permission to come on record in view of death of plaintiff on 27.05.2024.

2. In the affidavit in support of the application, it is stated that this suit is filed against the defendants for the relief of declaration, possession and permanent injunction. It is further stated that during the pendency of the suit, the plaintiff died on 27.05.2024. Since it is necessary to bring the LR's of plaintiff on record for proper

adjudication of the matter, the present application has been filed and prayed to allow the application.

3. The defendants have not filed any objection to the said application.

4. The following points would arise for my consideration :

i) Whether the right to sue survives in favour of LRs of deceased plaintiff ?

ii) What order ?

5. My answer to above points are as under :

Point No.1: In the Affirmative,

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

REASONS

6. Point No.1 : The legal representatives of plaintiff i.e., the wife and children of plaintiff have filed this application to come on record after death of the plaintiff and this is a suit for the relief of declaration, possession and permanent injunction against the defendants. The plaintiff died on 27.05.2024. Since the suit

is for declaration, possession and permanent injunction, the right to sue survives even after death of the plaintiff. Where the plaintiff dies the right to sue survives and it can be continued by the LRs of the deceased plaintiff. The present applicants i.e., the wife and children of deceased plaintiff being the surviving LRs of the deceased plaintiff have got right to proceed with case and it is necessary to allow them to come on record to avoid multiplicity of proceedings. Hence, this Court comes to the conclusion that the said LRs of plaintiff are to be allowed to come on record. Hence, I answer **Point No.1 in the Affirmative.**

7. Point No.2 : For the above said reasons, I proceed to pass the following :

ORDER

The application i.e., I.A. No.XXV filed U/O.XXII Rule 3 R/w. Sec.151 of CPC, is hereby allowed.

The LR's of plaintiff i.e., plaintiff No.1(a) to (d) as per the aforesaid application, are permitted

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*to come on record as plaintiff
No.1(a) to (d).*

*Counsel for plaintiffs is
hereby directed to carry out
amendment and to file amended
plaint accordingly.*

**Prl. Civil Judge and J.M.F.C,
Belagavi.**

Call on 10.09.2024.

**Prl. Civil Judge and J.M.F.C,
Belagavi.**