

KABG040007832021



30.11.2024

O.S.No.479/2021

ORDERS ON I.A.NO.IV

The counsel for plaintiff has filed application U/O.XXII Rule 4 R/w. Sec.151 of C.P.C. to bring the LRs of defendant No.4 on record as defendant No.4(a) to (c) in view of death of defendant No.4 on 15.07.2024.

2. In the affidavit in support of the application, it is stated that this suit is filed against the defendants for the relief of partition and separate possession and that during the pendency of this suit, the defendant No.4 has died on 15.07.2024 and that it is necessary to bring the LRs of defendant No.4 on record for proper adjudication of the matter. On these grounds, plaintiff has prayed to allow the application.

3. Upon service of notice, the LRs of defendant No.4 i.e., proposed defendants No.4(a) to 4(c) did not appear and remained absent.

4. The following points would arise for my consideration :

- i) Whether the right to sue survives against LRs of deceased defendant No.4?
- 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 plaintiff has filed the present suit for the relief of partition and separate possession and it is stated that defendant No.4 died on 15.07.2024 leaving behind the legal heirs as mentioned in the application and that the right to sue survives against them even after death of defendant No.4. Neither the legal heirs of defendant No.4

nor the other defendants have filed objection to the present application. But, as the right to sue survives against the L.Rs of defendant No.4, this Court comes to the conclusion that the said LR's of defendant No.4 are to be brought 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.IV filed U/O. XXII Rule 4 R/w. Sec.151 of C.P.C., is hereby allowed.

The LR's of defendant No.4 as mentioned in the aforesaid applications, are permitted to be brought on record as defendants No.4(a) to 4(c).

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

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

Call on 05.12.2024.

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