

KABG040020782021



Presented on : 23-12-2021

Registered on : 23-12-2021

Decided on : 30-06-2025

**IN THE COURT OF IV ADDL. CIVIL JUDGE AND JMFC
BELAGAVI.**

**PRESENT: Bhuvaneshwari D. BA, LLB (Hon's), LLM.
IV Addl. Civil Judge & JMFC.,
Belagavi.**

Dated, on this 30th day of June, 2025

ORIGINAL SUIT No.1211/2021

PLAINTIFF:	1. Shri. Mainoddin, S/o Mahmadgousa Attar Age : 55 years, Occ : Business, R/o : Bazar Galli, Hirebagewadi Belagavi.
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V/s.

DEFENDANTS:	1. Shri. Khajasab S/o Mahmadgousa Attar, Age : 57 years, Occ : Business, R/o : H. No. 269, Bazar Galli, Hirebagewadi, Belagavi. And another
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<u>ORDER ON I.A.No.VII</u>	
APPLICANT/ PLAINTIFF:	Shri. Mainoddin S/o Mahmadgousa Attar
(By Shri S. D. Mulla, Advocate)	

-AND-	
DEFENDANT/ OPPONENT:	Shri. Khajasab S/o Mahmadgousa Attar,
(By Shri.C. M. Bomannavar, Advocate for D-1) (By Shri.A.M. Yadwadkar, Advocate for D-2)	

PARTICULARS

i	Provision under which the applications is filed	Order XXII Rule 4 R/w Sec. 151 and R/w Sec. 5 of the Limitation Act
ii	Relief sought for	Seeking to bring legal heirs of plaintiff and condonation of delay
iii	The date on which the applications is filed	13.06.2025
iv	Number of application	I.A.No.VII
v	The date on which the objections are filed by different opponents	Subjected no objection
vi	The date on which the orders were passed on the said application.	30-06-2025

ORDER ON I.A.No.VII FILED BY PLAINTIFF UNDER
ORDER XXII RULE 4 R/W Sec. 151 OF C.P.C AND R/W
SECTION 5 OF LIMITATION ACT

This I.A is filed under Order XXII Rule 4 R/W Section 151 of CPC submitting that defendant No.2 has expired on 08.03.2025 and the legal heirs of the defendant No.2A to 2D are to be brought on record as legal heirs.

2. In the affidavit annexed to the I.As, the said facts are elucidated:-

It is stated by the deponent who is the plaintiff that the defendant No.2 is dead on 08.03.2025 and his legal heirs are to be brought on record and submitted that there is delay in filing the application due to ill-health.

The plaintiffs have furnished the death certificate in which date of death is mentioned as 08.03.2025 and this application on 13.06.25. hence the application is filed well within the time. Hence, the present application is filed.

3. The defendant's counsel submitted no objection to allow the said application.

4. Heard both the counsels.

5. Upon hearing the counsels and laying emphasis on the material particulars, the following points arise for the determination of this Court;

POINTS

1. Whether the I.A No.VII filed by the plaintiff under Order 22 Rule 4 R/w Sec. 151 of CPC and R/w Sec. 5 of Limitation Act deserves to be allowed?
2. What order?

6. Upon perusal of the pleadings and taking note of the oral arguments addressed by the parties on the merits of the said application, this Court answers the aforementioned points as under;

Point No.1 : In the Affirmative

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

REASONS

7. **POINT No.1:** This court is of the view that since the I.A is filed after the period of limitation the delay has to be met with imposition of suitable costs and the impleadment of legal heirs of defendant no.2 is necessary to determine the real questions in controversy and to decide upon the suit fairly, allowing of this I.A is just and necessary. Hence, **Point No.1 is answered in the Affirmative.**

8. **Point No.2:-** In view of the discussions made at Point No.1, the Court proceeds to pass the following order;

ORDER

***I.A No I.A No. VII filed by the
plaintiff under Order XXII Rule 4
R/w Section 151 of CPC and R/w
Section 5 of Limitation Act is
hereby allowed.***

The defendant No.2A to 2D are permitted to be brought on record.

Defendant No. 2A to 2D

- 2A. Nasima Wd/o Mansoor Attar,
Age: 50 Years, Occ: Household
R/o: H. No. 269, Bazar Galli,
Hirebagewadi, Belagavi.
- 2B. Shri. Juned S/o Mansoor Attar,
Age: 25 Years, Occ: Business,
R/o: H. No. 269, Bazar Galli,
Hirebagewadi, Belagavi.
- 2C. Shri. Shabeera S/o Mansoor Attar
Age: 22 Years, Occ: Business,
R/o: H. No. 269, Bazar Galli,
Hirebagewadi, Belagavi.
- 2D. Smt. Firdous W/o Ifran Mujawar,
Age : 28 years, Occ : Household
R/o: H. No. 269, Bazar Galli,
Hirebagewadi, Belagavi.

***For carrying out amendment and for
furnishing of amended plaint by 23.07.25***

(Dictated to the Stenographer Grade-III, directly on computer and corrected by me and pronounced in the open Court, on this the 30th day of June 2025).

**Sd/-
(Bhuvaneshwari D.)
IV Addl. Civil Judge & JMFC,
Belagavi.**