

KABG040018092021



**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE & JMFC,
AT : BELAGAVI.**

PRESENT : Smt. Preeti L. Malavalli, B.B.A.,LL.B (Hons.)
Prl. Civil Judge & JMFC.,
Belagavi.

DATED THIS THE 20TH DAY OF JUNE-2025

ORIGINAL SUIT NO.1038/2021

PLAINTIFFS :

1)	Shri. Shivaji S/o. Valaji Patel and another.
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Vs.

DEFENDANTS :

1)	Shri. Babu S/o. Bhairu Kamti and others.
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PARTIES TO I.A.NO.V

Applicants/Plaintiffs :

1)	Shri. Shivaji S/o. Valaji Patel and another.
	(By Shri. M. H. Nandagaon, Adv.)

Vs.

Opponents/Defendants :

1)	Shri. Babu S/o. Bhairu Kamti and others.
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ORDERS ON I.A.NO.V

This application is filed U/O.IX Rule 2 R/w. Sec.151 of C.P.C. seeking to set aside the order of dismissal as against defendant No.4 dated 07.11.2024.

2. In the affidavit annexed to the accompanying application, it is stated that the suit came to be dismissed as against defendant No.4 on 07.11.2024 on account of failure on the part of plaintiffs to take steps against said defendant. But however, restoration of suit as against defendant No.4 is very much necessary in the interest of justice and equity. On these grounds, the plaintiffs have prayed to allow the present application.

3. Since the summons was not served on defendant No.4, there is no question of calling for objection to the said application from the said defendant.

4. The following points would arise for my consideration :

- i) Whether the application i.e., I.A.No.V filed by plaintiffs U/O.IX Rule-2 R/w. Sec.151 of C.P.C. deserve to be allowed ?
- i) 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 : Plaintiffs have filed this suit for the relief of permanent injunction. It is pertinent to note that on 07.11.2024, the suit came to be dismissed as against defendant No.4 due to failure on the part of plaintiffs to take steps to secure the presence of defendant No.4 in the suit. But, now after a period of about two months, the plaintiffs have filed the present application seeking restoration of suit against the said defendant. No doubt, there is delay in filing the present application, but however perusal of plaint, reveals that defendants No.1 to 6 have got substantial interest in the subject matter of the suit and as such defendant No.4 is also the necessary party to the suit since the present suit is for the relief of permanent injunction. As such, his presence is required for effective and complete adjudication of the matter in question and without his presence, the matter in controversy cannot be effectively and finally adjudicated. Hence,

in order to avoid multiplicity of proceedings, it is very much necessary to allow the present application in the interest of justice. For these reasons, I answer **Point No.1 in the Affirmative.**

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

O R D E R

The application i.e., I.A.No.V filed by plaintiffs U/O.IX Rule 2 R/w. Sec.151 of C.P.C. is hereby allowed on cost of Rs.300/-.

The order of dismissal dated 07.11.2024 is hereby set aside and the suit against defendant No.4 is restored.

Issue suit summons to defendant No.4, returnable by 04.07.2025.

(Dictated to the stenographer directly on computer, revised by me & after corrections pronounced in the open Court on this the 20th day of June-2025.)

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