

KABG040011062013



02.04.2026

O.S.No.479/2013

ORDER ON I.A.NO.XIX

The counsel for plaintiff has filed application U/O.XXII Rule 4 R/w. Sec.151 of C.P.C. to bring the legal heir of defendant No.3 on record as defendant No.3(A) in view of death of defendant No.3 on 09.12.2024.

2. In the affidavit filed in support of the application, the GPA holder of plaintiff has stated that during the pendency of this suit, the defendant No.3 has expired on 09.12.2024 and that it is necessary to bring the LR of defendant No.3 on record for proper adjudication of the matter. On these grounds, the GPA Holder of plaintiff has prayed to allow the application.

3. Despite sufficient opportunity being given, the defendants have not filed objection to the said application.

4. The following points would arise for my consideration:

- i) Whether the right to sue survives against LR of deceased defendant No.3 ?*
- 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 this suit for the relief of partition and separate possession against the defendants. Since the suit is for partition and separate possession, the right to sue survives even after death of the defendant No.3. Where the defendant dies, the right to sue survives and it can be continued against the LRs of deceased defendant. Neither the legal representative of defendant No.3 nor the other defendants have filed objection to the present application. But, as the present suit is for partition and separate possession in respect of suit schedule properties, the right to sue survives against

the LR of defendant No.3 and hence this Court comes to the conclusion that the said LR of defendant No.3 is to be brought on record. Hence, I answer **Point No.1 in the Affirmative.**

7. Point No.2 : For the above said discussion on Point No.1, I proceed to pass the following :

ORDER

The application i.e., I.A.No.XIX filed U/O. XXII Rule 4 R/w. Sec.151 of C.P.C., is hereby allowed.

The LR of defendant No.3 as mentioned in the aforesaid application, is permitted to be brought on record as defendant No.3(a).

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

No order as to costs.

**Prl. Civil Judge & JMFC,
Belagavi.**

For amendment of plaint and to carry out amendment as per order on I.A.No.XIX by 16.04.2026.

**Prl. Civil Judge & JMFC,
Belagavi.**