

KABG040030542012



03.06.2026

O.S.No.1562/2012

COMMON ORDERS ON I.A.NO.VI TO VIII

These applications are filed U/O. XXII Rule 4 of C.P.C., U/O.XXII Rule 9 of C.P.C. and U/Sec.5 of Limitation Act by the counsel for plaintiffs to bring the LR of deceased plaintiff No.2 on record.

2. In the affidavits annexed to the accompanying the applications, the GPA holder of plaintiffs has stated that the plaintiff No.2 died on 23.10.2013, leaving behind her daughter as her legal representative and hence she may be permitted to come on record and to condone the delay in filing applications and to set aside the abatement. It is also stated that the presence of said legal

heir is very much necessary in this suit as her right is also involved in the suit.

3. The defendants did not file objection to the said application.

4. The following points would arise for my consideration :

i) Whether the right to sue survives in favour of LR of deceased plaintiff No.2?

ii) Whether the LR of deceased plaintiff No.2 can be brought on record by condoning the delay and setting aside the abatement ?

iii) What order ?

5. My answer to above points are as under :

Point No.1 : In the Affirmative.

Point No.2 : In the Affirmative.

**Point No.3 : As per final order
for the following :**

REASONS

6. **Point No.1 and 2 :** In order to avoid repetition both the points are discussed together. The plaintiffs have filed this suit for the relief of partition and separate possession.

The plaintiff No.2 died on 23.10.2013. Since the suit is for partition and separate possession, the right to sue survives even after death of the plaintiff No.2. Where the plaintiff dies, the right to sue survives and it can be continued by the LRs of the deceased plaintiff. The proposed plaintiff No.2(a) being the surviving LR of the deceased plaintiff No.2, she has got right to proceed with case and it is necessary to allow her to come on record to avoid multiplicity of proceedings. These applications cannot be rejected only on the ground that the applications are filed belatedly. Hence, this Court comes to the conclusion that the said LR of plaintiff No.2 is to be allowed to come on record by setting aside the abatement and condoning the delay. Hence, I answer **Point No.1 and 2 in the Affirmative.**

7. Point No.3 : For the above said reasons, I proceed to pass the following :

ORDER

***The applications i.e., I.A.
No.VI to I.A.No.VIII filed U/O.XXII
Rule 4 of C.P.C., U/O. XXII Rule 9 of***

O.S.No.1562/2012

***C.P.C. and U/Sec.5 of limitation Act
are hereby allowed.***

***The LR of plaintiff No.2 i.e.,
plaintiff No.2(a) as per
the aforesaid applications, is
permitted to come on record as
plaintiff No.2(a).***

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

Call on 11.06.2026.

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