

17-04-2025:

ORDERS ON I.A.No.14

I.A.No.14 is filed by the applicants/proposed LR's of deceased plaintiff No.2 U/o.22 Rule 2 and 3 of CPC with memorandum of facts praying permission to bring them as the legal heirs of deceased plaintiff No.2 who died on 26.02.2025 as plaintiff No.2(a) & 2(b).

In the memorandum of facts it is stated that their father and elder brother of their father have filed the suit for partition and separate possession. He further stated that their father plaintiff No.2 died on 26-02-2025. He himself and his mother Smt. Puspalatha are the legal heirs of their deceased father plaintiff No.2. Except them there are no any other legal heirs. Hence it is necessary to implead them as plaintiff No.2(a) and 2(b) in the suit as they are legal heirs of their deceased plaintiff No.2. Hence prayed to allow the application.

The learned counsel for defendants submitted their no objection to allow IA No.14.

Heard.

I have perused the materials on record, this suit is one for partition and separate possession filed by the plaintiffs against the defendants.

According to Order 22 Rule 2 and 3 of CPC, when the deceased plaintiff No.2 passed away leaving behind his legal representatives and if the right to sue survives on him it is necessity to substituting the legal representatives if any of plaintiff No.2 who died on 26-02-2025.

On careful perusal of the records and application, the plaintiff No.2 passed away on 26.02.2025. There is no dispute that the proposed LRs are the legal heirs of the deceased plaintiff No.2 as the defendants have also not filed objection to IA No.14. Further the defendants have also not disputed to bring the proposed plaintiff No.2(a) & 2(b) are the legal heirs of deceased plaintiff No.2. Hence, it is

sufficient to hold that the plaintiffs No.2(a) & 2(b) are the legal representatives of deceased plaintiff No.2. The scope of provision of Order 22 Rule 4 of Civil Procedure Code it is enough to bring the LRs of the deceased plaintiff No.2 to proceed with the matter. Under the facts and circumstances of the case, to bring the legal representatives of deceased plaintiff No.2 is necessary. Article 120 of Limitation Act provides, the limitation period of 90 days from the date of death to implead the legal representatives. Thus it is clear that the total time frame for filing an application for substitution of legal heirs of deceased is of 90 days from the death of the deceased parties to the proceedings. Admittedly, the death extract furnished by the plaintiffs along with the application discloses that the Plaintiff No.2 has expired on 26-02-2025. In view of this on perusal of the application, it appears that the present application is filed on 11-04-2025. Therefore the application is filed within 90 days from the date of death of plaintiff No.2. Hence, I am of the opinion that the applicants/proposed plaintiff No.2(a) and 2(b) are able to make out ground for allowing the application filed for bringing the legal

representative of deceased plaintiff No.2 on record. Hence, I.A.No.14 is deserves to be allowed. Therefore for the above reasons, I proceed to pass the following;

ORDER

I.A.No.14 filed by the applicant/proposed LR's of deceased plaintiffs No.2 U/o.22 Rule 2 and 3 of CPC is hereby allowed.

The applicants/ proposed plaintiff No.2(a) and 2(b) are hereby permitted to come on record as legal heirs of the deceased plaintiff No.2 as plaintiff Nos.2(a) and 2(b).

Further the LRs of the deceased plaintiff No.2 are permitted to amend the cause title of the plaint on or before 28-04-2025 and furnish amended plaint by 13-06-2025.

Senior Civil Judge,
Bailhongal