

KABG300007372021



**IN THE COURT OF SENIOR CIVIL JUDGE,
BAILHONGAL, AT: BAILHONGAL**

PRESENT:

**Shri. Ravi Babu Chawan,
B.A.LL.B(Spl.).
Senior Civil Judge, Bailhongal.**

F.D.P. No.16/2021

Dated this the 2nd Day of July, 2025

1) Shri. Pramod Vasantrya Mulagund (Dead)
Since deceased by LRs.

1(a) Smt. Hema W/o Vasantrya Mulagund
and others

.....Petitioners

(By Sri.A.F.P., Advocate)

-Vs.-

1) Sri. Jagadish Manohar Motekar @ Kalal and others

.....Respondents

(By Sri. V.B.K., Advocate for R1 & R2)

(By Sri. I.M.H., Advocate for R3(a) (1 to 6),
R3(b) (1 to 5), R4(a) (1 to 4), R4 (b to f), R5 (a to e), R6
and R7)

(By Sri. U.C.H., Advocate for R8)
(R-9: Absent)

Parties to IA No.IV

1) Shri. Pramod Vasantrya Mulagund (Dead)
Since deceased by LRs.
1(a) Smt. Hema W/o Vasantrya Mulagund
and others

.....Applicants/Petitioners

-Vs. -

(By Sri.A.F.P., Advocate)

1) Sri. Jagadish Manohar Motekar @ Kalal and others

.....Opponents/Appellants

(By Sri. V.B.K., Advocate for R1 & R2)
(By Sri. I.M.H., Advocate for R3(a) (1 to 6),
R3(b) (1 to 5), R4(a) (1 to 4), R4 (b to f), R5 (a to e), R6
and R7)
(By Sri. U.C.H., Advocate for R8)
(R-9: Absent)

ORDERS ON I.A.No.IV

I.A.No.IV is filed by the applicant/petitioners U/o.22
Rule 2 to 4 r/w sec. 151 of CPC and Section 5 of the
Limitation Act praying permission to bring the legal
representatives of deceased respondent No.4(a) as

Respondent No.4(a)1 to 4(a)4 and also condoning the delay in bringing the LRs of deceased respondent No.4.

2. The above application is supported with the affidavit of applicant/petitioner No.2(b) Smt,. Rekha @ Vijaylaxmi W/o Pramod Mulagund has sworn to the fact that the respondent No.4(a) namely Ashok Rajaram Jorapur wa died leaving behind 04 legal heirs. Due to non-availability of death extract and due to ill health she has not approached to her counsel I time. Hence there is delay in bringing the legal heirs of deceased respondent No.4(a) on record. If the legal heirs of deceased respondent No.4(a) is not brought on record then the suit will be abated. Hence it is necessary to bring the legal heirs of deceased respondent No.4(a) on record. The delay caused for bringing the LRs on record is not of her intention one, it is due to non-availability of death extract in time. If the application is allowed there will not be cause any loss or hardship to the other side, otherwise she will be put to heavy and irreparable loss. Hence she prayed for allowing the application.

3. The learned counsel for legal heirs of respondent No.4 submitted no objection to allow IA No.IV.

4. Heard. Perused the materials on records.

5. The following points would arise for my consideration:

POINTS

1) Whether the applicants/petitioners have made out sufficient grounds to allow IA No.IV?

2) What order?

6. My findings on the aforesaid points is as under:

Point No. 1: In the Affirmative

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

REASONS:

7. **Point No.1:-** According to Order 22 Rule 2 to 4 of CPC, when a party to the petition passed away leaving behind legal representatives and if the right to sue survives on him, it is necessary to substitute the legal representatives if any of deceased party to proceedings.

8. On careful perusal of the records and application, the respondent No.4(a) passed away. It is sworn to the fact that the proposed LRs are the only legal heirs of the

deceased respondent No.4(a). Hence, it is sufficient to hold that the respondent No.4(a)1 to 4(a)4 are the legal representatives of deceased respondent No.4(a). The scope of provision of Order 22 Rule 2 to 4 of Civil Procedure Code it is enough to bring the LRs of the deceased respondent No.4(a) to proceed with the matter. Under the facts and circumstances of the case, to bring the legal representatives of respondent No.4(a) is necessary. Hence, I am of the opinion that applicant/petitioners are able to make out ground for allow the application filed for bringing the legal representatives of deceased respondent No.4(a) on record. Hence, I.A.No.IV is deserves to be allowed. Accordingly, I answer point No.1 in the affirmative.

9. **Point No.2:-** For the reasons assigned to Point No.1 and to meet the ends of justice I proceed to pass the following:

ORDER

I.A.No.IV filed by the petitioners U/o.22
Rule 2 to 4 r/w sec. 151 of CPC and Section 5
of the Limitation Act is hereby allowed.

The petitioners are hereby permitted to amend the cause title of the petition to that effect and to furnish amended petition.

(Dictated to the stenographer directly on computer system, transcribed and typed by him, corrected, revised then signed by me and pronounced in the open Court on this the 2nd day Day of July, 2025)

(Ravi Babu Chawan)
Senior Civil Judge, Bailhongal.

