

O.S.No. 123 of 2009

**ORDERS ON I.A.No. 9 to 11 FILED UNDER
ORDER 22 RULE 3, ORDER 22 RULE 9 OF C.P.C.
AND UNDER SECTION 5 OF LIMITATION ACT
RESPECTIVELY BY THE APPLICANT/
PLAINTIFF**

The plaintiffs have filed **I.A.No.9** under **Order 22 rule 4 R/w Section 151 of C.P.C.** along with affidavit, seeking permission to bring the legal heirs of deceased Defendant No.10 and also filed **I.A.No.10 under Order 22 rule 9 of C.P.C.** along with affidavit, praying to set aside the order of abatement against the legal heirs of Defendant No.10 and also filed **I.A.No.11 Under Section 5 of Limitation Act**, praying to condone the delay in bringing the legal heirs of deceased Defendant No.10 on record.

Learned counsel for the defendant Nos.1, 3 to 9 have not filed objection to the said IAs. In spite of sufficient opportunities have been granted the property defendant Nos.10A has not appeared and filed objection.

Heard the argument. Perused the I.A.Nos. 9 to 11 and annexed affidavit and record. The death of Defendant No.10 is not in disputed. Present suit is filed for the relief of partition and separate possession against the defendants. In order to adjudicate the matter effectively it is just and necessary to bring the legal heirs of deceased Defendant No.10. The proposed defendant is

necessary party to adjudicate the matter effectively. Therefore, this court is of view that it is just and necessary to allow the applications. Therefore IA Nos. 9 to 11 are allowed. Consequently, the order of abatement is set-aside. Delay is condoned in bring the legal heirs of the deceased Defendant No.10. The plaintiffs are permitted to bring the legal heirs of deceased Defendant No.10 on record.

In view of the above order the plaintiffs are permitted to carry out the amendment of plaint and to file the amended plaint within 14 days from this date of order. The defendants are at liberty to file additional written statement if any.

II ADDL. C.J. & J.M.F.C Chikodi

**ORDERS ON I.A.No. 12 FILED UNDER ORDER 1
RULE 10 OF C.P.C. BY THE APPLICANT
/PLAINTIFF**

The plaintiffs have filed **I.A.No.12** under **Order 1 rule 10 R/w Section 151 of C.P.C.** along with affidavit, seeking permission to implead the Defendant No.1 to 21 in this suit as they are necessary parties to the suit.

Learned counsel for the defendant Nos.1, 3 to 9 have not filed objection to the said IA. Though the notice on

IA was served and inspite of sufficient opportunities have been granted the property defendant Nos.11 to 18, 20 and 21, they have not appeared and filed objection. The notice issued to the proposed defendant No.19 was returned with shara as he is dead. For that the plaintiffs have taken steps to implead the legal heirs of deceased proposed defendant No.19 on record.

Heard the argument. Perused the I.A.Nos. 12 and annexed affidavit and record. Present suit is filed for the relief of partition and separate possession against the defendants. In order to adjudicate the matter effectively it is just and necessary to permit the plaintiff to add the proposed defendants who are the sharers in this case. The proposed defendants are necessary parties to adjudicate the matter effectively. Therefore, this court is of view that it is just and necessary to allow the application. Therefore IA No. 12 is allowed. The plaintiffs are permitted to bring the proposed defendants on record as Defendant No.11 to 18, 20 and 21.

In view of the above order the plaintiffs are permitted to carry out the amendment of plaint and to file the amended plaint within 14 days from this date of order. The defendants are at liberty to file written statement if any.

II ADDL. C.J. & J.M.F.C Chikodi

**ORDERS ON I.A.No. 1 of 2018 FILED UNDER
ORDER 1 RULE 10 OF C.P.C. BY THE
APPLICANT/PLAINTIFF**

The plaintiffs have filed **I.A.No.1 of 2018** under **Order 1 rule 10 R/w Section 151 of C.P.C.** along with affidavit, seeking permission to implead the Defendant No.22 to 24, who are the legal heirs of one shri.Anand Jeenappa Kamble, in this suit as they are necessary parties to the suit.

Learned counsel for the defendant Nos.1, 3 to 9 have not filed objection to the said IA. Though the notice on IA was issued through paper publication and inspite of sufficient opportunities have been granted the property defendant Nos.22 to 24, they have not appeared and filed objection.

Heard the argument. Perused the I.A. and annexed affidavit and record. Present suit is filed for the relief of partition and separate possession against the defendants. In order to adjudicate the matter effectively it is just and necessary to permit the plaintiff to add the proposed defendants who are the sharers in this case. The proposed defendants are necessary parties to adjudicate the matter effectively. Therefore, this court is of view that it is just and necessary to allow the application. Therefore IA No. 1 of 2018 is allowed. The plaintiffs are permitted to bring the proposed defendants

on record as Defendant No.22 to 24.

In view of the above order the plaintiffs are permitted to carry out the amendment of plaint and to file the amended plaint within 14 days from this date of order. The defendants are at liberty to file written statement if any.

Call on 4.7.19.

II ADDL. C.J. & J.M.F.C Chikodi