

Order pronounced

COMMON ORDER ON IAs.

The applicant/appellant No.1 has filed three I.As. U/o. XXII Rule 4 r/w section 151 of the Code of Civil Procedure, U/o XXII Rule 9 of the

Code of Civil Procedure and u/sec. 5 of the Limitation Act praying to implead the LRs of deceased respondent No.1 as respondents No.1A to 1E, set aside the abatement of appeal against the respondent No.1 and condone the delay in bringing the LRs, stating that the respondent No.1 died on 31.01.2015 leaving behind the proposed respondents No.1A to 1E.

2. In the affidavits filed in support of these IAs, the applicant has mainly stated that the respondent No.1 died on 31.01.2015 leaving behind the proposed respondents No.1A to 1E as legal heirs. But due to coming to know about the death of respondent No.1 recently, there is delay in bringing the LRs which is bonafide and not intentional.

3. Though the notice of these IAs are served upon the LRs of deceased respondent No.1, they have not filed objections and therefore, I heard and perused the case records.

4. The contention of the applicant that the respondent No.1 died on 31.01.2015 and the

proposed respondents No.1A to 1E are his legal heirs/LRs is not disputed and denied by the proposed respondents and appellants by filing objections. The presence and participation of the LRs of the deceased respondent No.1 in this appeal are necessary in order to decide the rights of the deceased respondent No.1 over the subject matter of the case. Merely because, there is delay in bringing the LRs of the deceased respondent No.1, it does not mean that the IAs should be rejected because, the applicant has clearly stated that recently, he came to know about the death of respondent No.1. It is relevant to mention that the death of a party should be reported to the court but in this appeal, it appears that the respondents have not reported the death of respondent No.1 by producing the death certificate. Therefore, the contention of the applicant that he recently came to know about the death of the respondent No.1 cannot be brushed aside. Therefore, I am of the considered view that the IAs deserve to be allowed and therefore, same are allowed. For these reasons, I proceed to pass the following:

ORDER

The LRs of the deceased respondent No.1 are impleaded as respondents No.1A to 1E in this appeal. The applicant shall amend the appeal memo in this regard by the next date of hearing and shall file the amended appeal memo on the next date of hearing. Call on 18.08.2023.

(Dictated to the Judgment Writer, transcribed and typed by him and corrected, signed and then pronounced by me in the Open Court on this the 4th day of August 2023).

(S. L. CHAVHAN)

**VII Addl. Dist. and Sessions Judge,
Belagavi, Sitting at Chikkodi.**