

**IN THE COURT OF CIVIL JUDGE & J.M.F.C.,
AT SANDUR.**

Present : Md. Shaiz Chouthai,

B.A.,LL.B. (Hons.), LL.M,(M.L.)

Civil Judge & JMFC, Sandur.

Dated: 24th day of June, 2026

O.S. No. 49/2017

Plaintiff/s : Malli Kariyappa S/o Ayyappa,
and Others.

(By Sri. P.B.S., Advocate)

V/S

Defendant/s : Smt. Gangamma W/o Late Hanumanthappa,
and others.

(D-1 to 6 By Sri. H.M.K. Advocate)

I.A. NO. 14 TO 16

Applicant/s : Malli Pavadappa S/o Ayyappa
(Plaintiff No.2)

V/s

Opponents : Smt. Gangamma W/o Late Hanumanthappa,
and others.
(Defendants)

COMMON ORDERS ON I.A. NO.14 TO 16

1. The plaintiff No.2 has filed I.A.No.14 under Order XXII Rule 4 R/w Sec. 94 and 151 of C.P.C., to bring the Lrs. of deceased defendant No.2 on record. I.A.No.15 is filed under Order XXII Rule 9 R/w Sec. 94 and 151 of C.P.C., to set aside abatement order, and I.A.No.16 under Sec.5 of Limitation Act R/w Sec. 151 of C.P.C., to condone the delay in filing the applications. These applications are filed on 25.02.2026 when the matter was posted for arguments.

2. The applications are accompanied with affidavit of the applicant/plaintiff No.2 stating that, defendant No.2 died on 05.12.2023 at Havinahalu village leaving behind his wife, 2 sons and a daughter as his legal heirs. The plaintiffs have filed this suit against the defendants for the relief of declaration of their share and consequential relief of permanent injunction. The right to sue survive against the legal heirs of deceased defendant No.2. After the demise of defendant No.2, his family members were in grief

stricken and to perform death and other religious ceremony. The applicant could not receive any communication in this regard until he heard from his counsel. There is delay of 2 years 1 month and 19 days in filing the application to bring LRs of deceased defendant No.2. The delay is bonafide and not intentional. Therefore, it is necessary to bring them on record, by which no prejudice will be caused to the other side. The applicant prays to condone the delay and set-aside abatement and permit him to bring the legal heirs of defendant No.2 on record. On these grounds, he prays to allow the applications.

3. After issuing notice to defendant No.2(a) to 2(c), none of them appeared on receipt of notice. The other defendants have not filed any objections to the application.

4. Plaintiffs did not argue on the application. Perused the records.

5. The present suit is filed for the relief of partition and separate possession in respect of suit house and landed properties. The plaintiffs claim their share in the suit properties.

6. On the demise of defendant No.2, the right to sue survives against his legal representatives. If they are not brought on record no proper adjudication can be arrived at between the parties. The entire suit will become redundant. Other defendants have not contended that there are other legal heirs of deceased defendant No.2 apart from the persons mentioned in the application. It is also not disputed that the persons named in the applications are the legal heirs of deceased defendant No.2. Therefore, for complete adjudication of the matter and to avoid multiplicity of the proceeding the applications deserves to be allowed. As such, in the interest of justice and equity the prayer made in the applications deserves consideration. The delay caused in bringing the legal heirs is condoned and the abatement is set-aside. Consequently, this court proceed to pass the following :

ORDER

I.A. No.16 filed under Section 5 of Limitation Act R/w Sec. 151 of C.P.C. is hereby allowed by condoning the delay.

I.A.No.15 filed under Order XXII Rule 9 R/w Sec. 94 and 151 of C.P.C. is hereby allowed by setting aside the abatement.

Similarly I.A. No.14 filed under Order XXII Rule 4 R/w Sec. 94 and 151 of C.P.C. is hereby allowed.

The plaintiffs are permitted to bring the legal representatives of deceased defendant No.2 on record by carrying out necessary amendment.

The applicant shall carry out necessary amendment and file amended plaint.

(Dictated to the stenographer, computerized by him, corrected by me and then pronounced in the open Court, on this the 24th of June 2026)

(Md. Shaiz Chouthai)
Civil Judge and J.M.F.C., Sandur.