

ORDERS ON I.A.NO. XIII TO XV

Plaintiffs have filed I.A No.13 under order 22 Rule 3 of CPC, I.A No.14 under order 22 Rule 9 of CPC and I.A No.15 under Sec. 5 of Limitation Act. to set aside the abatement of suit, condone the delay in filing the application and permit the plaintiffs to bring the LR's of plaintiff No.1 on record.

2. The daughter of Plaintiff No.1 has sworn to an affidavit in support of these I.A No.13 to 15 and contended that plaintiffs are filed the suit for partition and separate possession. When the matter was posted for cross-examination of PW.1, plaintiff No.1 expired by living behind her children as her LR's. The delay is not intentional but for the bonafide reason. The applicants are proper and necessary parties to the suit. Hence, prays to condone the delay in filing this application by setting aside the abatement order in the interest of justice and equity.

3. Defendants have filed objection to these I.A's and contended that plaintiffs have produced G-Tree pertaining to the family of Smt.Ammajamma. According to the defendants Ammajamma was having a son by name Govindraju and he is no more. Said Goivindaraju died living behind his wife Bhagyamma and a daughter by name Chaitra. Said Chaitra is married and she is not impleaded by the plaintiff hence the LR application is not complete. Hence, prays to dismiss the I.A in the interest of justice and equity.

4. The points that arise for my consideration are as follows;

1. Whether I.A No.13 filed by the plaintiffs under Order 22 Rule 3 of CPC, I.A No.14 filed under order 22 Rule 9 of CPC and I.A No.15 filed under Sec. 5 of Limitation Act is deserves to be allowed?
2. What order?

5. My findings to the above points are as follows:

POINT No.1 : In the Affirmative.

**POINT No.2 : As per final order
for the following;**

REASONS

8. POINT NO.1: Heard, perused the records. Plaintiffs have filed this suit for partition and separate possession against the defendants. In this case plaintiff No.1 Ammajamma died and her LR's have filed these I.A No.13 to 15 and sought permission to come on record. Plaintiffs have also produced G-Tree which goes to show that said Ammajamma has 6 children by name Kempamma, Govindaraju, Venkatachalapati, Veeranna Venkatalakshamma and Muniratnamma. Out of them Govindaraju is died and his wife Bhagyamma is shown as LR No.1(b). Defendants have contended that said Govindaraju and Bhagyamma had got one married daughter by name Chaitra and she is also proper and necessary party to the suit. They have not denied that proposed LR's are the children of deceased

Ammajamma. Hence, there is no impediment in allowing the LR application by condoning the delay. There is no available material on record to show that said Govindaraju has a daughter by name Chaitra. Moreover, the wife of Govindaraju has been brought on record and therefore, the share of Govindaraju can be allotted to her. Hence, said Bhagyamma is representing the branch of Govindaraju. Even if said Govindaraju has a daughter by name Chaitra, she can claim her respective share from her mother. Hence, I.A No.13 to 15 dissolves to be allowed with cost. Hence, I answer **point No.1 in the Affirmative.**

9. Point No.:2: For the aforesaid reasons, I proceed to pass the following;

: ORDER :

I.A No.XIII filed by the plaintiffs under order 22 Rule 3, I.A No.XIV filed under order 22 Rule 9 of CPC and I.A No.XV under Sec.5 of limitation Act is hereby allowed on cost of Rs.200/-.

The delay in bringing the LR's of plaintiff No.1 is hereby condoned.

The LR's of plaintiff are permitted to come on record as plaintiff No.1(a) to (f).

**Plaintiffs are permitted carryout
amendment and furnish amended plaint.**

(SHILPA.H.A)
Senior Civil Judge & JMFC.,
Doddaballapura.