

ORDER ON I.A.NO.1 U/O 22 RULE 4 OF CPC

The counsel for appellants filed I.A.No.1 U/O 22 Rule 4 of CPC with affidavit sworn to by the appellant No.2 stating that, in view of death of his father N.Krishnamurthy/R.1, his daughter Sridevi through 2nd wife Nagarathnamma is necessary party/R.1(a) to the appeal. Accordingly prays to allow the I.A.No.1.

On the other hand learned counsel for the respondents filed objections stating that, the appellant has not intentionally mentioned the name of Nagarathnamma being the wife of Late Krishnamurthy/R.1 and hence the I.A.No.1 is liable to be rejected.

Heard the arguments of both sides on I.A.No.1.

The point that arise for consideration are :

- 1) Whether reasonable grounds exist to allow the I.A.No.1 as sought for ?
- 2) What order ?

The learned counsel for the respondent has filed memo with attested true copy of survivor ship certificate of deceased Krishnamurthy and it consists of the name of his wife Nagarathnamma and daughter Sridevi also. It is further produced the copies of Aadhaar cards of

LRs of Krishnamurthy/R.1 and also produced the government service book copy of the respondent No.1 for reference to the I.A.No.1 to show that, name of Nagarathnamma is appearing in the service register.

Considering the aforesaid material, it would be apt to observe that, the 2nd wife can not be considered as Class-1 legal heir.

Hence, as the proposed R.1(a) being the daughter of deceased R.1 Krishnamurthy and his 2nd wife Nagarathnamma becomes the Class-1 heir, the I.A.No.1 deserves to be allowed as contended in the I.A.No.1. Hence, the objections filed are unsustainable in law as O.S.No.52/2016 filed is with regard to alleged joint family and ancestral properties and there is a Issue No.2 upon the defendant No.2 and 3 to establish that, whether their mother Nagarathnamma is the wife of defendant No.1 and the said defendant No.1 deserted her since long back.

Hence, I answer the Point No.1 in affirmative.

POINT NO.2:- In view of the above reasons I proceed to pass the following :

ORDER

I.A.No.1 U/O 22 Rule 4 of CPC is hereby allowed.

For amendment and amended appeal memorandum by 20/02/2025.

1st Addl. District & Sessions Judge,
Chitradurga.