

ORDERS ON I.A.NO.VIII TO X

The plaintiff has filed 3 applications U/O. XXII R.4 & R.9 Of CPC & Sec. 5 Of Limitation Act respectively to bring the legal heirs of deceased defendant No.12 who died on 20.11.2019 during pendency of the suit.

The plaintiff has sworn to the affidavit that, he came to know about death of defendant No.12 at later stage of the suit. However, he was making enquiry about legal heirs of said deceased defendant No.12. As such the delay has occurred in filing the LR's application. Hence, prayed to allow the application.

In response to the notice, the proposed defendant NO.12(a) to (c) have not appeared and they have not filed objection. As such heard on LR's petition and perused the records.

The order sheet shows that, the death of defendant No.12 was reported on 19.11.2021 as died on 20.11.2019 by the plaintiff himself. On perusal of the list of legal heirs of deceased defendant NO.12 it appears that, there are totally 3 legal heirs left behind by the defendant No.12.

Considering the fact that, the plaintiff had no knowledge about death of defendant No.12

and also he was ascertaining as to who is legal heirs of deceased defendant No.12. As such, I am of the opinion that, the delay in filing the LR's petition has been properly explained by the plaintiff. Having regard to the nature of the suit I am of the opinion that, the cause of action is survived as against the legal heirs of defendant No.12. Hence, the applications are deserved to be allowed. Accordingly, following:

ORDER

The I.A No.X filed by plaintiff U/Sec.5 of Limitation Act is allowed. Thereby the delay in filing the legal heirs application is condoned.

The IA.No.IX filed by the plaintiff U/O.XXII R.9 of CPC is allowed and the order of abatement against defendant No.12 is set aside.

The IA.No.VIII filed by plaintiff U/O.XXII R.4 of CPC is allowed. Consequently the plaintiff is permitted to bring the legal heirs of deceased defendant No.12 on record by amendment to the plaint cause title within 7 days from the date of this

order and shall furnish amended plaint
also. For compliance by

Senior Civil Judge & JMFC.,
Hiriyur