

O.S 39/2014

ORDERS ON IA NO.28 to 30

The plaintiff No.1 has filed I.A No 28 U.O 22 rule 4 of the CPC and I.A No.29 Under. O 22 rule 9 of CPC and I.A No.30 under Section 5 of limitation Act and prays to implead the legal heirs of defendant No.2 on record.

Inspite of service of summons the legal heirs of defendant No.2 not appeared before the court.

Heard.

It is the contention of plaintiff No.1 that defendant No.2 died on 02.02.2023.

The plaintiff filed this suit against the defendants for Declaration and partition. There is no material on record to disbelieve the contention taken by the plaintiff. Hence, legal heirs of defendant No.2 become necessary parties, in their absence the court cannot proceed further in the matter. Moreover, the right to sue survive on the legal heirs of the deceased defendant No.2. Therefore, it is just and proper to condone the delay in filing these applications and to implead the legal heirs of defendant No.2 as parties to this suit by

setting aside the abatement order. By considering the all these aspects, this court proceed to pass the following:

ORDER

The IA.No.28 to 30 filed by the plaintiff No.1 U/O.XXII 4 of CPC, U/O.XXII R.9 of CPC and U. Sec.5 of Limitation Act are hereby allowed.

Thereby the delay in filing these applications is hereby condoned. The abatement order is hereby set aside.

The plaintiff No.1 is permitted to implead the legal heirs of deceased defendant No.2 as defendant No.2(a) to 2(c) to this suit by suitably amending the cause title of the plaint.

To carry out amendment and to file amended plaint call on 15.12.2025

Sr. Civil Judge & JMFC.,
Hiriyur