

ORDERS ON IA No.IV TO VI

I.A.No.IV filed U/o 22 Rule 4 of CPC, by the applicants/proposed petitioners with a prayer to bring the legal heirs of deceased respondent No.1.

I.A.No.V filed by the applicants/proposed petitioners U/o 22 Rule 9 of CPC, to set aside the abatement order against respondent No.1.

I.A.No.VI filed by the applicants/proposed petitioners U/Sec.5 of Limitation Act, to condone the delay in filing application to set aside abatement order against the respondent No.1.

2. All these applications are supported by affidavit of applicant/petitioner No.4. In the affidavit it is stated that, during pendency of the petition respondent No.1 has expired leaving behind the proposed respondent No.1(a) to (f) as his legal heirs. The petitioner No.4 has stated that, respondent No.1 died on 21.06.2020, she also produced death certificate of respondent No.1. There is delay in bringing legal heirs of respondent No.1 on record. It is further stated that, the delay is not deliberate or intentional one. The legal heirs of deceased respondent No.1 are necessary and proper parties to this petition for proper adjudication of dispute. Hence on these grounds, she prays to allow these applications.

3. In the instant case, the petitioners have filed this petition seeking the relief of Final Decree Proceedings.

4. It is stated by the petitioner No.4 that, delay in bringing the LRs of respondent No.1 on record is not intentional one. However, it is stated by the petitioner No.4 that the death of the respondent No.1 was known to her after the issue of the notice to the respondent No.1 by court process and in order to collect the particular of LRs of deceased respondent No.1 there was a delay. Further she stated that, the reason in filing the application is beyond her control, as such she could not file the applications to bring the LRs of respondent No.1. If the LRs of the deceased respondent No.1 is not brought on record the proposed respondents will be put to loss. On the contrary, there is delay of one year 29 days in bringing the application schedule legal heirs of deceased respondent No.1, except the above said delay relationship of the proposed party with deceased is not dispute by the respondents. That, the LRs of respondent No.1 are the very necessary parties to the petition. Hence, this court is of the considered opinion that, petitioner No.4 has made out grounds for condoning the delay in bringing legal representatives of respondent No.1. Hence, this court proceed to pass the following:

ORDER

I.A.Nos.IV to VI filed by the applicant/petitioner No.4 U/Sec.5 of Limitation Act, U/o 22 Rule 9 of CPC and U/o 22 Rule 4 of CPC are hereby allowed.

Delay in filing application for setting aside abated order bringing L.Rs of respondent No.1 is hereby condoned and abatement of petition against the LR's of respondent No.1 is set aside.

The Applicant/petitioner No.4 is permitted to bring Legal Heirs of respondent No.1 on record as respondent No.1(a) to 1(f).

The petitioner No.4 is directed to make necessary amendment and to furnish the amended petition.

No order as to costs.

Addl.Civil Judge & JMFC.,
Holalkere.