

OS 22/2021

The advocate for plaintiff files vakalath and I.A.No.II U/o XXII rule 3 of CPC, seeking permission to come on record by the LR's of deceased plaintiff, IA.No.III U/o XXII rule 9 R/w Sec. 151 of CPC to set aside the abatement and I.A.No.IV U/Sec.5 Limitation Act to condone the delay in filing the abatement application, in the interest of justice and equity.

Defendant is exparte.

Heard the counsel for plaintiff and perused the I.A.No. II to IV.

On perusal of the IA.No.II to IV and available records, it reveals that the plaintiff has filed suit for declaration and permanent injunction.

Since, it is a suit for declaration and permanent injunction, the right to sue survives

on the LRs of plaintiff to proceed with the matter.

Since, there is no dispute with regards to legal heirs of plaintiff and the reasons assigned by the Legal heirs of plaintiff are satisfactory, as such the applications are liable to be allowed. Hence, this Court proceed to pass the following;

**ORDER**

***The IA.No.IV filed U/Sec.5 of Limitation Act is hereby allowed, the delay in filing the abatement application is condoned.***

***The IA.No.III filed U/o XXII rule 9 R/w Sec. 151 of CPC is hereby allowed, the abatement is set aside.***

***The IA.No.II filed U/o XXII rule 3 of CPC is hereby allowed and the legal heirs of plaintiff are hereby permitted to come on record and proceed with the***

***matter.***

***The legal heirs of plaintiff are hereby directed to amend the plaint and furnish the amended plaint.***

***For amendment.***

***Call on 29.09.2021.***

*Addl. Civil Judge & JMFC.,  
Hosadurga.*