

ORDER ON IA.IV TO VI

The advocate for plaintiff has filed IA.No.IV U/o XXII rule 4 of CPC to bring the LR's of deceased defendant No.1 on record, IA.No.V U/o XXII rule 9 of CPC to set aside the abatement and IA.No.VI U/Sec.5 of Limitation Act to condone the delay in filing the abatement application, in the interest of justice and equity.

After service of notice on IA.No.IV to VI on the LR's of deceased defendant No.1, he appeared through his counsel, however, did not file any objections to IA.No.IV to VI. Hence, his objections to IA.No.IV to VI taken as not filed.

On perusal of the IA.No.IV to VI and available records, it reveals that the defendant No.1 has died on 21/05/2017, but the plaintiff did not secure the date of death of defendant No.1, however, with the great difficulty has obtained death certificate of defendant No.1 and also the information regarding the legal heirs of deceased defendant No.1, for the very reason the plaintiff could not file the necessary application to bring the legal heirs of deceased defendant No.1 on record well in time.

Since, there is no objections from the defendant No.1(a) and there is no dispute with regards to legal heirs of defendant No.1 and the reasons assigned by the plaintiff are satisfactory, as such the applications are liable to be allowed. Hence, this Court proceed to pass the following;

ORDER

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

The IA.No.V filed U/o XXII rule 9 of CPC is hereby allowed, the abatement is set aside.

The IA.No.IV filed U/o XXII rule 4 of CPC is hereby allowed and plaintiff is permitted to bring the legal heirs of deceased defendant No.1 on record as defendant No.1(a).

The plaintiff is hereby directed to amend the plaint and furnish the amendment plaint.

For amended plaint and steps.

Call on 20/06/2019.

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