

OS 488/2018

The advocate for plaintiff files IA.No.II U/o XXII rule 4 of CPC to bring the LR's of deceased defendant No.6 on record, IA.No.III U/o XXII rule 9 R/w Sec. 151 of CPC to set aside the abatement and IA.No.IV U/Sec.5 Limitation Act to condone the delay in filing the abatement application, in the interest of justice and equity.

The legal heirs of defendant No. 6, have voluntarily appeared and filed vakalath. Also submits to allow the I.A.No. II to IV.

On perusal of the IA.No.II to IV and available records, it reveals that the defendant No.6 has died on 05.02.2019. The plaintiff being the innocent person could not file the necessary application to bring the legal heirs of deceased defendant No.6 on record well in time.

Since, there is no objections from the defendant No.6 (a) to (e) and there is no dispute with regards to legal heirs of defendant No.6 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.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 4 of CPC is hereby allowed and plaintiff is

permitted to bring the legal heirs of deceased defendant No.6 on record as defendant No.6(a), (b), (c), (d), (e).

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

For amendment and steps.

Call on 17.12.2019.

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