

**IN THE COURT OF THE CIVIL JUDGE AND ADDL. J.M.F.C. AT TARIKERE**

**O.S.No.137/2015**

**PLAINTIFF**

Sri. Murthy @ Keshavamurty

**vs.**

**DEFENDANTS**

Sri. Raghu and others

**Date: 11.08.2025**

**Proceedings or Orders of the Judicial Officer**

**COMMON ORDERS ON I.A. NO. XII to XIV**

**1.** The proposed Plaintiffs No.1 (a) & (b) have filed IA No.XII U/o 22 Rule 3 r/w sec. 151 of CPC, IA No.XIII U/o 22 Rule 9 of CPC and IA NO.XIV U/s 5 of Limitation Act and with the prayer to permit the applicants shown in the application to come on record as LRS of deceased Plaintiff, set aside the deemed order of abatement and to condone the delay in preferring such applications.

**2.** The reasons ventilated by the proposed plaintiff No.1(a) in the affidavit annexed to the applications are that the sole Plaintiff expired on 14.12.2017 and proposed Plaintiffs being the LRs of plaintiff are to be impleaded in the case. Further submitted that proposed Plaintiffs will be put into great hardship and injury if these applications are rejected. Hence, prayed to allow the applications.

**3.** On the other hand, Defendants have filed objections with the contention that the application is not maintainable in law or on facts. The applications are filed belatedly at the lapse of three years from the date of death. There is no reason assigned to explain the delay. The intention of the proposed Plaintiffs is to protract the proceedings. Hence, the prayer is to reject the applications with heavy costs.

**4.** Heard both sides.

5. Having heard both sides and on perusal of materials placed on record, the sole point that would arise for my consideration is as under -

***“Whether the Applicants/ proposed Plaintiffs have made out sufficient grounds to allow the applications in I.A.No.XII to XIV?”***

6. My answer to it is in the **“Affirmative”** for the following reasons -

7. The present suit is filed mainly for the relief of partition and separate possession. Through these applications, the proposed Plaintiffs have sought to condone the delay in filing impleading application and to set-aside the abatement order and also to implead LRs of deceased plaintiff. It is pertinent to note that the suit is one filed for the relief of mainly for the relief of partition and separate possession. In this type of suit, the right to sue subsisting even after the death of original Plaintiff. The right to sue runs with the property in a suit for partition and separate possession. Hence, there is no impediment in considering these applications positively. On the question of delay, I may have to concur with the objections made to the applications. The delay at any stage would result in strangulation of the cause for speedy justice. The delay is found to be inordinate but not which shocks the conscience of the court. Hence, the delay deserves to be condoned but subject to imposition of appropriate costs. With the aforesaid discussions, I answer the sole point in the **“Affirmative”** and proceed to pass the following-

**ORDER**

*I.A No.XII to XIV filed by the Applicants/ Proposed Plaintiff No.1(a) & (b) are hereby allowed on cost of Rs.500/- each.*

*Consequently the applicants being proposed Plaintiff No.1a & b are permitted to come on record as Plaintiff No.1a & b in the suit, the deemed order of abatement order passed against deceased Plaintiff is set aside and delay in bringing such applications is hereby condoned.*

*There shall be consequential amendment to the plaint.*

*To carry out amendment and to furnish amended plaint by 16.09.2025.*

sd/-

**C.J & A.J.M.F.C: Tarikere**



