

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

Present : SMT.PAVITHRA.M.D, B.A., LL.B.,
Civil Judge & Addl. JMFC. Tarikere.

O.S.No.361/2013

Dated this 23rd day of August 2018

ORDERS ON IA.No.11

The applicants have has filed this application U/Or.22 Rule 3 R/w Sec.151 of CPC to bring them on record as the LR's of deceased plaintiff.

2. It is averred in the affidavit annexed to the application that, during pendency of this suit, the plaintiff died on 25.04.2018 leaving behind the applicants as his legal heirs. Since, the estate of the deceased plaintiff devolves upon the applicants they became necessary parties to this suit. Hence, this application.

3. The 1st and 3rd defendants have filed their objection statement wherein they stated that, the deceased plaintiff has five children and out of them, one Jayamma D/o Gangadharappa and the wife and children of the deceased son of the deceased plaintiff namely Chandrappa have not made as parties to the suit. Hence, the application filed by the applicants is not maintainable and prayed to dismiss the suit with cost.

4. Heard on IA.No.11.

5. Perused the application in the backdrop of materials available on record. The plaintiff has filed this suit for partition and separate possession in the suit schedule properties. That

during pendency of the instant suit, the plaintiff died on 25.04.2018. The defendant has not disputed that, the applicants are the legal heirs of the deceased plaintiff. But, he contended that, his another daughter namely Jayamma and the LR's of his predeceased son namely Chandrappa have not been made as a necessary parties to this suit. Since, there is no dispute that, the applicants are the legal heirs of the deceased plaintiff, the resistance made by the 1st and 3rd defendant is not sustainable. The counsel for the plaintiff himself argued that, the applicants are representing the branch of their father. I agree with the arguments canvassed by the counsel for the plaintiff to the effect that, the applicants are only representing the branch of the deceased plaintiff and they have not sought for partition and separate possession of the suit schedule properties among them. Further, the application filed by the applicants is well within time. Hence, I find no legal impediment to allow the application filed by the plaintiff. Accordingly, I proceed to pass the following:

ORDER

The application filed U/Or.22 Rule 3 R/w Sec.151
of CPC is hereby allowed.

No order as to cost.

To carry out amendment and amended plaint by

Sd/-

**(PAVITHRA.M.D)
CIVIL JUDGE AND
ADDL.J.M.F.C., TARIKERE.**