

ORDER ON I.A NO.VII TO IX

1. The plaintiff has filed present applications under Order XXII Rule 4 of CPC, Order XXII Rule 9 of CPC and under Section 5 limitation act, seeking to bring Lr's of deceased defendant No.1 on record. It is the contention of the plaintiff that, at that time when case is pending for trial the plaintiff has got knowledge regarding death of defendant No.1 and right sue survives against Lr's of defendant No.1.

2. Upon issuance of notice the Lr's of defendant No.1 appeared through their counsel and filed objections to I.A No.7 to 9. It is the contention of the Lr's of defendant No.1 that, the plaintiff is the wife of brother of the defendant No.1 and she had knowledge regarding death of defendant No.1 but the plaintiff has filed present applications 3-4 years after death of defendant No.1. Accordingly sought for dismissal of the applications.

3. Heard both sides, perused materials on record, accordingly the following are the points for consideration of this court.

4. On perusal of the materials on record, it could be observed that, there is no dispute regarding Lr's of defendant No.1 but the objection by the Lr's of defendant No.1 is only with respect to delay in filing the present applications. Admittedly right to sue survives against the Lr's of defendant No.1 and

regards to delay, if the affidavit filed along with I.A's are perused it could be observed that, the plaintiff has not stated any reasons for the delayed caused in filing the present application. However this court is of the opinion that, the plaintiff may be permitted to bring Lr's of defendant No.1, by imposing adequate cost for the delay caused in filing the present applications. Accordingly this court proceed to pass the following.

:- ORDER :-

I.A No.VII to IX filed by plaintiff under Order XXII Rule 4 of CPC, Order XXII Rule 9 of CPC and under Section 5 limitation act are allowed on Cost of Rs.200/- each, consequently delay in filing present applications is condoned, abatement is set aside and Lr's of defendant No.1 are permitted to come on record.

Since Lr's of defendant No.1 are already before this court, suit summons to Lr's of defendant No.1 is deferred. ‘

Plaintiffs shall amend the plaint and file amended plaint.

Call on:26.03.2026

I Addl. Civil Judge & JMFC.,
Kollegal