

ORDERS ON I.A NO:8 TO 10.

When the matter was posted for further chief of PW-1. The plaintiffs came up with these applications.

IA NO:8 is filed U/Or.22 Rule 4 R/w Sec.151 of CPC seeking permission to being the Lrs of deceased defendant NO:7 i.e defendant NO:7(a) & (b) As detailed in the application.

The plaintiffs filed I.A NO:9 U/Or.22 Rule 9 R/w Sec.151 of CPC praying to set aside the abatement order so passed on account of not filing the IA NO:8 in time.

The plaintiffs filed IA NO:10 U/sec.5 of Limitation Act seeking condonation of delay if any caused in submitting the IA NO:8.

In the affidavit annexed to the applications, the plaintiffs stated that, they have filed this suit for the relief of partition and separate possession. The defendant NO:7 died on 25-01-2021 leaving behind defendant NO:7(a) & (b) as referred in the application and bringing the said Lrs on record is necessary for prosecuting the case further as the Lrs of deceased defendant NO:7 are necessary parties to this suit and in their absence, the suit cannot be decided on

merits effectively. Accordingly, prayed to permit the plaintiffs for bringing Lrs of deceased defendant N0:7 as referred at IA N0:8 and also sought setting aside of abatement order as well as condonation of delay in filing IA N0:8.

Notices were served to defendant N0:7(a) & (b) but both have not appeared before the court.

Heard. Perused the records. Admittedly, present suit is filed for the relief of partition and separate possession and in the absence of LRs of defendant N0:7(a) and (b), who are necessary parties, the suit cannot be decided on merits effectively. As such, this court is of the opinion that, the plaintiffs have made out sufficient grounds for permitting them to bring Lrs of deceased defendant N0:7 as detailed at IA N0:8 and also made out ground for setting aside of abatement order as well as condonation of delay caused if any in bringing the LRs deceased defendant N0:7. Accordingly, I proceed to pass the following order.

ORDER

IA N0:8 to 10 so filed by the plaintiffs for bringing Lrs deceased defendant N0:7, setting aside of amendment order and condonation of delay application are hereby allowed.

The plaintiffs are directed carry out the amendment to the plaint and to submit the amended plaint.

Call on for amendment of plaint and amended plaint by 19-11-2022.

Senior Civil Judge & JMFC.
Channagiri.