

ORDERS ON I.A. Nos.3 to 5

These are applications filed by appellants U/O.22 Rule 2 and 3, 22 Rule 9 of CPC and Sec.5 of Law of Limitation Act respectively requesting the Court to set aside abatement order against deceased appellant No.1 and 3 by condoning delay in filing applications and permit the appellants to bring legal heirs of deceased appellant No.1 and 3 on record whose name shown in schedule to the application as legal heirs of deceased appellant No.1 and 3.

The counsel for respondents has orally objected and contended that, there is no reasonable grounds made out to condone the delay. Further delay is not properly explained. Hence requested to dismiss the application.

Perused the records placed before the Court.

It is stated in an affidavit filed in support of applications that, appellants No.1 was died on 20/09/2022 leaving behind appellants as his legal heirs and appellant No.3 also died on 07/06/2018 leaving behind his wife and children i.e., applicants No.3(a)

to 3(c) present proposed parties as their legal heirs. Thereafter the appellants have collected necessary information with regard to legal heirs of deceased appellant No.1 and 3. Thereafter they have filed present applications.

Fact that appellant No.1 and 3 are dead is not disputed by other side. Further it is not in dispute that the proposed parties are the legal heirs of deceased appellant No.1 and 3. Taking into consideration of nature of present appeal and rights of the parties, it is time and again held superior courts that, courts must be liberal in condoning delay in cases of filing of present applications.

Hence, I proceed to pass the following:

ORDER

I.A.No.3 to 5 filed by the applicants U/O.22 Rule 2 and 3, U/O.22 Rule 9 of CPC and Sec.5 of Limitation Act are hereby allowed.

Abatement order passed against deceased appellant No.1 and 3 is hereby set aside. By condoning delay in filing application the proposed parties are bring on record as legal heirs of deceased appellant No.1 and 3.

The appellants are directed to carry out necessary correction in cause title of appeal

memo and furnish amended copy of the same on next date of hearing.

Call on :

Sd/-
Senior Civil Judge
Harihara.