

I.A.No.3 to 5 filed by the petitioner U/O.22 Rule 4 of CPC, U/O. 22 Rule 9 of CPC, and Sec.5 of Limitation Act respectively requesting the court to set aside abatement order passed against the respondent No.1 by condoning delay in filing application and permit the petitioner to bring legal heirs of respondents No.1 on record whose names shown in schedule to the application, in the interest of justice.

Copy of the applications are served on other side.

In response to notice on I.A. proposed respondents No.1(a) to 1(c) not appeared before the Court through their counsel. Hence, placed exparte.

Heard on both side.

Perused the records placed before the Court.

It is stated in an affidavit filed in support of applications that, the death of respondent No.1 came to the knowledge of the petitioner only when bailiff has filed report, reporting the death of respondents No.1. The persons whose name shown in the schedule to the application are legal heirs of deceased respondent No.1. As petitioner/applicant had been to other place in search of avocation, he could not furnish necessary information to his counsel so as to bring legal heirs of respondents No.1 on record in time.

Non bringing of legal heirs of respondents No.1 in time is not intentional one, same is due to above mentioned bonafide reasons. If abatement order passed against respondents No.1 is not set aside, and petitioner is not permitted to bring legal heirs of respondents No.1 on record, he will be put to hardship and injury, on the other hand no hardship or injury would be caused to other side.

It is not disputed by proposed parties that they are the legal heirs of deceased respondents No.1. As such right to contest survives in favour of these proposed parties who are L.Rs of respondents No.1.

Hence, I proceed to pass the following :

ORDER

I.A.No.3 to 5 filed by the petitioner/applicant U/O.22 Rule 4 of CPC, U/O.22 Rule 9 of CPC and Sec.5 of Limitation Act are hereby allowed.

The petitioner is permitted to bring L.Rs of respondents No.1 on record, whose name shown in schedule to the application as legal heirs of respondents No.1 in the present case.

The petitioner is directed to carry out necessary correction in cause title of petition and furnish amended petition.

Call on :

Sd/-  
Senior Civil Judge  
Harihara.