

07.04.2025

ORDER ON I.A.No.15

At the time of hearing on IA No.14, the learned counsel for the plaintiff has filed this application under Order 17 Rule 1 of C.P.C. praying to adjourned the above matter for two weeks.

2. In the memorandum of facts it is stated that, the authorized signatory of the plaintiff trust is died. The plaintiff's counsel tried to contact the wife of the deceased trustee, but she was under grief and depression due to loss of the late N.S.Sukumar Shetty. In order to bring the LRs of the deceased trustee on record, the counsel for plaintiff prays to allow the application.

3. The learned counsel for defendant No.2 to 6 has filed objection to the present application by stating that, three trustees are named as signatories to the plaint. Just because one of the trustee has died, the proceedings need not be adjourned for the purpose of impleading the legal heirs of the deceased signatory to the plaint. The suit can be continued with other signatories. The legal heirs of the deceased, by right, do not get any right in the trusteeship by just being legal heirs of the deceased trustee. Hence, prayed to dismiss the application with exemplary cost.

4. Heard and perused the materials on record.

5. The following points that arise for consideration are as under;

1. Whether the application filed by counsel for plaintiff is deserve to be allowed?

2. What order?

6. My findings to the above points are as under;

Point No.1 : In the **Affirmative**

Point No.2 : As per final order
for the following;

REASONS

7. The suit is filed against the defendants for the reliefs of Permanent Prohibitory Injunction, Mandatory Injunction and for declaration.

8. When the suit is posted for hearing on IA No.14 which was filed to Return the Plaint, the counsel for plaintiff filed this application. It is stated in the memorandum of facts that, the authorized signatory of the plaintiff trust is died and wife of deceased trustee was under grief and depression due to loss of the late N.S.Sukumar Shetty. Hence, counsel for plaintiff prays some

time to bring the LR's of the deceased trustee on record. But, defendant No.2 to 6 are opposing to allow the application by filing objection.

9. Through this application, the counsel for plaintiff seeking time to bring the LR's of the deceased trustee of the plaintiff trust. Hence, it is just and necessary to consider the present application. **Order XVII Rule 1 of CPC** reads as follows;

"1. Court may grant time and adjourn hearing -(1) the court may, if sufficient cause is shown, at any stage of the suit grant time to the parties or to any of them and may from time to time adjourn the hearing of the suit for reasons to be recorded in writing"

10. Thus, the cause is shown in the memorandum of facts annexed along with the application is sufficient to allow the application. No prejudice will be caused to the defendants, if this application is allowed. In order to adjudicate the dispute involved in this suit effectively, it is necessary to allow the application. Hence, to avoid multiplicity of proceedings and to meet ends of justice this court answer the **point no.1** in the **Affirmative**.

11. **Point No.2:** In view of above discussion, this court proceed to pass the following:

ORDER

IA No.15 filed by the counsel for plaintiff under Order 17 Rule 1 of CPC is hereby allowed.

2 weeks' time is granted

For hearing on IA No.14 by the plaintiff and steps against plaintiff No.1(a) finally as last chance.

Call on : **19.04.2025**

Sd/-
Civil Judge & JMFC,
Moodbidri.