

ORDERS ON I.A NO.6 FILED BY THE PLAINTIFF UNDER 22
RULE 4, OF CODE OF CIVIL PROCEDURE.

The plaintiff has filed I.A.No.6 U/o.22 rule 4 of praying to permit the applicant to bring on record the legal heirs of the deceased defendant No. 2 and to prosecute the suit against him.

2. It is stated in an affidavits filed in support of applications that, plaintiff has filed the present suit for Mandatory Injunction. The Defendant No.2 has died during the month of August 2020. The 1st defendant has reported the same on 15-01-2021. The defendant No.2 died leaving behind his wife, who is the defendant No.1 herein and his son by name Mukunda who represent the estate of the deceased defendant No.2. The cause of action survives against the son of the deceased defendant No.2. In view of the fact that the information regarding the death of the deceased

defendant No.2 is reported in the month of January 2021, he was unable to ascertain the particulars of the son of the deceased defendant No.2. Therefore, he was unable to file the application within time. As the limitation for filing the application has been extended up to 15-03-2021 by the Hon'ble Supreme Court of India. With these averments the plaintiff has sought for allowing the application.

3. The notice issued on IA No.6 to the LR's of the Defendant No.2 has duly served. The Defendant No.2(a) has appeared before the Court through his counsel and submits no objections to allow the IA.

4. Heard on behalf of plaintiff and defendants perused the records placed before the court.

5. Taking into consideration of reasons as mentioned in an affidavit, it can be held that, reasonable grounds made out to condone the delay in filing applications. As there is no dispute that,

proposed party is legal heirs of deceased defendant No.2 the right to sue survives in his favour. The presence of these proposed party necessary for effective adjudication of dispute involved in the suit. Hence Court proceed to pass the following.

ORDER

I.A.No.6 filed by the plaintiff U/o 22 Rule 4 of CPC is hereby allowed.

The proposed Defendant No.2(a) is ordered to be brought on record as legal heir of deceased defendant No.2.

The plaintiff is hereby directed to carry out amendment and furnish amended plaint.

(Suneeta)

3rd Addl. Civil Judge and J.M.F.C
Channarayapatna.