

ORDERS ON IA

The plaintiff has filed IA's U/o 22 rule 4 of C.P.C seeking permission to bring LRs of defendant No.1 on record and U/O 22 Rule 9 of CPC prays to set aside the abatement order against defendant No.1 and U/s 5 of Limitation Act prays to condone the delay in bring LRs of defendant No.1 on record.

In the accompanying affidavit of IA's the plaintiff has assigned the reason for preferring the present applications and the necessity and circumstances for preferring this applications. As per the averments made in the affidavit it is stated that during the pendency of the suit the defendant No.1 died on 04/09/2018 leaving behind legal heirs. Hence the plaintiff sought application to bring LRs of defendant No.1 as mentioned in the applications and it is very necessary to prove the case on hand. They are the proper and necessary parties to the proceedings. Hence prays for allowing the applications.

Despite provide sufficient time, the defendant not filed objection. Hence objection of defendant taken as not filed.

Heard, perused the record.

On perusal of entire record, the suit is for partition and separate possession. As per applications averments, the plaintiff stated that the defendant No.1 died 04/09/2018 leaving behind his legal

heirs. Hence plaintiff filed the present applications to bring LR of defendant No.1 on record. The presence of legal heirs is very much essential and their active participation is necessary.

The plaintiff preferred the present applications on 20/06/2019. Herein this case the defendant No.1 died on 04/09/2018. As per article 120 of Limitation Act the legal heirs are to be brought on record within 90 days from the date of death of the person. There is 6 months delay in filing the present applications. More the present suit filed for the relief of partition and separate possession, the presence of legal heir of defendant No.1 as party to the suit is very much essential so as to adjudicate the right of the parties involved in the case pertaining to subject matter of suit. Without the active participation of legal heirs of defendant No.1, the effective judgement and decree could not be passed to execute the order of the court. In the interest of justice and equity and to avoid multiplicity of proceedings and to reach finality in one suit it is just and necessary to come on record as legal heirs of defendant No.1 on record. Moreover the delay may be condone by imposing reasonable cost. In the interest of justice and disposal of case on merits this court the applications may be consider. Accordingly I proceed to pass the following order.

::O R D E R::

The applications filed by the plaintiff IA U/o 22 Rule 4 of CPC and

U/o 22 Rule 9 of CPC, U/s 5 of Limitation Act are hereby allowed on cost of Rs.500/-.

Cost shall be payable in the office.

Order of abatement against Defendant No.1 is hereby set aside.

It is hereby directed to the plaintiff to bring LRs of defendant No.1 as D1(a) to (e) and to file the amended plaint within statutory period from the date of this order.

For compliance R/by 17/03/2020.

(R.Mahesha)
Civil Judge and J.M.F.C,
Holenarasipura.