

ORDERS ON IA

The petitioner has filed IA U/o 22 Rule 9 of CPC prays to set aside abatement order and order 22 rule 4 of C.P.C seeking permission to bring legal heirs of the JDR No.2 on record and Section 5 of the limitation Act.

In the accompanying affidavit of IA the petitioner has assigned the reason for preferring the present application and the necessity and circumstances for preferring this applications. As per the averments made in the affidavit it is stated that the present petitioner filed for effecting the partition as per preliminary decree passed in OS No.22/1973. Thereafter this court appointed the court commissioner to effect the partition. Meanwhile the respondent No.2 died on 07/08/2018. Hence the petitioner sought application to bring the legal heirs of JDr No.2 on record as mentioned in the application 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.

The JDRs has not filed any objection.

Heard, perused the record.

On perusal of entire record, the petition filed for effecting the partition as per preliminary decree passed in OS No.22/1973. While during the pendency of the petition, the JDR No.2 died on 07/08/2018. Hence bringing of legal heirs of the JDR No.2 on record is very much necessary. The presence of legal heirs is very much essential so as to adjudicate the right of the parties involved in the case pertaining to subject matter of petition. The active participation of legal heirs of JDR No.2 is necessary. Without the active participation of proposed JDRs, the effective decree could not be passed to execute the order of the court. Therefore to avoid multiplicity of proceedings and to reach finality in one petition it is just and

necessary to implead the proposed JDRs. In the interest of justice and disposal of case on merits the application is deserves to be allowed. Accordingly I proceed to pass the following order.

::O R D E R::

The application filed by the petitioner U/o 22 Rule 9 of CPC and U/order 22 rule 4 of C.P.C and Section 5 of the limitation Act are hereby allowed.

It is directed to the petitioner to bring legal heirs of the JRDs No.2 on record and to file the amended petition within statutory period from the date of this order.

No order as to cost.

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