

ORDERS ON I.A.No. 1 TO 3

The petitioner has filed these applications under Order 22 Rule 3 read with section 151 of CPC, U/Sec., 151 of CPC, and under Section 5 of Limitation Act and prayed to bring them on record as the legal heirs of petitioner No.2(a) to 2(d). Petitioner No.2, who died on 15-06-2024 and to set aside the abatement order if any in brining the legal heirs of deceased petitioner No.2(a) to 2(d) by condoning the delay in filing the legal heir application.

2. *In the affidavit annexed to the applications the petitioner has stated that the petition filed against Respondent for effect partition. Petitioner No.2 wpetitioner No.2(a) to 2(d) as died 15-06-2024 left behind his legal heirs petitioner No.2(a) to 2(d). In view of death of Petitioner No.2, LRS of petitioner No.2(a) to 2(d) being his wife, sons and daughter are interested to prosecute his case as the legal heirs. The cause of action to continue and survives on his and other legal heirs of the deceased Petitioner No.2. The applicants are rustic villagers, having not much exposed to worldly affairs, as such they have no knowledge of Court proceedings and limitation of law. Due to depression they have not met their Counsel to instruct him about the death of Petitioner No.2. But their relatives asked about the status of this case, then only they glanced about the case and approached their*

counsel and instructed him to take proper steps to brought them on record. The delay in filing the application within the stipulated period is purely bonafide reasons, but not intentional. They having good case on merits. Hence, prayed to allow the applicatipetitioner No.2(a) to 2(d) ons.

3. *Respondents objection taken as not filed.*

4. *Hearing heard and perused the materials available on records.*

5. *The petitioner has filed these applications contending that, Petitioner No.2 died on 15-06-2024 left behind his legal heirs petitioner No.2(a) to 2(d) to succeed his estate. The LRs are proper and necessary parties to the proceedings and they are interested to proceed with the case by entering into the shoes of the deceased Petitioner No.2 in order to adjudicate the matter fully and completely. If these applications are not allowed, they will be put to irreparable loss and injury. Hence prayed to allow the applications.*

6. *The LRS of Petitioner No.2(a) to 2(d) . The L.Rs are proper and necessary parties to the proceedings in*

order to adjudicate and dispute in the above case fully and effectively. Therefore, to competitioner No.2(a) to 2(d)

tinue the case if is necessary to bring the legal heirs of deceased LRS Petitioner No.2(a) to 2(d) on record without impleading them the case cannot be continued. Hence, it is necessary to set aside the order of abatement and it is necessary to condone the delay. If delay is not condoned they will put into great and irreparable loss and injury. If the applications are allowed no harm would be caused to other side. Hence, in the interest of justice and considered facts and circumstances of the case, I proceed to pass the following....

ORDER

I.A.No. 1 to 3 filed by the petitioner Under Order 22 Rule 3 read with section 151 of CPC, U/Sec., 151 of CPC., and Under Sec.5 of Limitation Act are hereby allowed.

The petition is permitted to amend the petition and to file amended petition.

Call on 12-02-2025

*Sd/- 28-01-2025
Addl. Senior Civil Judge and
JMFC., Haveri.*