

**ORDERS ON IA.NO.XVIII U/O 22 RULE 9, I.A. NO. XIX
FILED U/O. 22 RULE 4 R/W SEC.151 OF CPC AND I.A.
NO. XX FILED U/SEC. 5 OF LIMITATION ACT.**

The plaintiff filed IA.No. XVIII with a prayer to set aside the abatement order passed against deceased defendant No.2. He also filed IA No.XIX seeking permission to bring legal representatives of deceased defendant No.2 who died on 24-02-2023 on record and he also filed IA.No. XX U/sec 5 of Limitation act with a prayer to condone delay in brining LRS of deceased defendant No.2.

2. I.A. No. XVIII to XX are accompanied with an affidavit sworn by plaintiff, wherein it is stated that the defendant No.2 died on 24-02-2023, it is came to the knowledge of the plaintiff recently. There was no contact between plaintiff and defendants from several years. The plaintiff acquainted to wife of defendant No.2 only. Except her he does not know about children of deceased defendant No.2. Since the plaintiff is suffering from cold and fever, he could not approach his advocate to give information. Hence, delay is caused to file application for brining LRS of deceased defendant No.2. Hence prayed to allow the applications.

3. Inspite of granting opportunity, the defendants have not filed objection to said applications.

4. On perusal of records it appears that the plaintiff filed this suit seeking relief of Declaration of title and Possession of suit schedule property. The present applications are filed by the plaintiff seeking permission to bring the LRS of deceased defendant No.2 on record. According to plaintiff, defendant No.2 was died on 24-02-2023 leaving behind his wife.

5. However it is admitted by the plaintiff that there was a delay in filing of applications to bring legal representatives of deceased defendant No.2. The plaintiff has filed IA.No. XVIII and XX to set-aside the abatement order and condone the delay in brining LRS of deceased defendant No.2. However if the plaintiff is permitted to bring the legal representatives of deceased defendant No.2 on record by condoning delay no prejudice would be caused to the legal representatives of deceased defendant No.2. Infact it will be helpful to the Court to adjudicate the matter effectively. As per **Order 22 Rule 4 of CPC** “ *Where one of two or more defendants dies and the right to sue does not survive against the surviving defendant or defendants alone, or a sole surviving defendant dies and the right to sue survives, the court on an application made in that behalf, shall cause the*

legal representative of the deceased defendant to be made a party and shall proceed with the suit.” In the instant suit, the suit survives against legal representatives of deceased defendant No.2. Therefore she is proper and necessary party to this suit. It is true that there is a delay but mere delay is not a ground to reject the application. The delay may be compensated by imposing reasonable costs. Accordingly, I proceed to pass the following;

ORDER

**IA. No. XVIII U/O. 22 Rule 9 of CPC, I.A.
No. XIX U/O. 22 Rule 4 R/w Sec 151 of CPC
and I.A. No. XX U/Sec. 5 of Limitation Act
filed by the plaintiff are hereby allowed.**

**The plaintiff is hereby permitted to bring
legal representatives of deceased defendant
No.2 on record.**

Sd/- 24-11-2025

(SHOBHA B.G.)

**I Addl. Senior Civil Judge and
JMFC.,Haveri.**

**ORDERS ON IA.NO. XXI FILED U/O 22 RULE 4 AND 9 OF
CPC AND SEC 5 OF LIMITATION ACT.**

The plaintiff filed IA.No. XXI seeking permission to bring legal representatives of deceased defendant No.1 who died on 24-05-2025 on record and set aside the abatement order passed against deceased defendant No.1 and also with a prayer to condone delay in bringing LRS of deceased defendant No.1.

2. I.A. No. XXI is accompanied with an affidavit sworn by plaintiff, wherein it is stated that the defendant No.1 died on 24-05-2025. The deceased defendant No.1 had wife by name Anupama, she is only legal representative of deceased defendant No.1. Hence, bringing of said Anupama as LRS of deceased defendant No.1 is necessary in the suit. Hence prayed to allow the applications.

3. Though LRS of defendant No.1 appeared through her counsel, she has not filed objection to said application.

4. On perusal of records it appears that the plaintiff filed this suit seeking relief of Declaration of title and Possession of suit schedule property. The present application is filed by the plaintiff seeking permission to bring the LRS of deceased defendant No.1 on record by set

asiding abatement and condone the delay. According to plaintiff defendant No.1 was died on 24-05-2025 leaving behind his wife, she is only his legal representatives.

5. However it is admitted by the plaintiff that there was a delay in filing of applications to bring legal representatives of deceased defendant No.1. In application he prayed to set-aside the abatement order and condone the delay in brining LRS of deceased defendant No.1.

However if the plaintiff is permitted to bring the legal representatives of deceased defendant No.1 on record by condoning delay no prejudice would be caused to the legal representatives of deceased defendant No.1. Infact it will be helpful to the Court to adjudicate the matter effectively. As per **Order 22 Rule 4 of CPC** “ *Where one of two or more defendants dies and the right to sue does not survive against the surviving defendant or defendants alone, or a sole surviving defendant dies and the right to sue survives, the court on an application made in that behalf, shall cause the legal representative of the deceased defendant to be made a party and shall proceed with the suit.*” In the instant suit, the suit is survives against legal representatives of deceased defendant No.1. Therefore she is proper and necessary party to this suit. It is true that there is a delay but mere delay is

not a ground to reject the application. Accordingly, I proceed to pass the following;

ORDER

IA. No. XXI U/O. 22 Rule 4 and 9 of CPC and U/Sec. 5 of Limitation Act filed by the plaintiff is hereby allowed.

The plaintiff is hereby permitted to bring legal representatives of deceased defendant No.1 on record.

The plaintiff is directed to carry out necessary amendment as per order passed on I.A. No. XVIII to XXI to the caused title of the plaint and furnish amended plaint.

To carry out amendment and furnish amended plaint.

By 01-12-2025.

**Sd/- 24-11-2025
(SHOBHA B.G.)**

**I Addl. Senior Civil Judge and
JMFC., Haveri.**