



**IN THE COURT OF THE CIVIL JUDGE & J.M.F.C.,
SAVANUR**

**PRESENT: Sri. Srinivasa. S.N. B.A., LL.M.,
Civil Judge & J.M.F.C.,
Savanur.**

O.S./118/2010

DATED THIS 27th DAY OF JULY 2024

PLAINTIFFS: Dilerkhan S/o Abdulkarimkhan Biradar
and others

Vs

DEFENDANTS: Shahajadbegum M Biradar and
others

PARTIES IN IA No.40

APPLICANT : Dilerkhan S/o Abdulkarimkhan Biradar
and others

Vs

OPPONENTS : Shahajadbegum M Biradar and others

i	Provision under which the application is filed	U/O 22 Rule 4 & 9 of CPC R/w Section 5 of Limitation Act
ii	Relief sought for	Seeking to bring Legal Representatives of Deceased Defendant No.20 on records



iii	The date on which the application is filed	09.07.2024
iv	The date on which the objections are filed by different opponents	10.07.2024
v	The date on which the orders were passed on the said application	27.07.2024

ORDER ON IA No.40

The Plaintiffs have filed IA No.40 under Order 22 Rule 4 and 9 of CPC R/w Section 5 of Limitation Act, seeking to bring Legal Representatives of Deceased Defendant No.20 on records, in the interest of justice and equity.

2. The Plaintiffs/Applicants have stated in the affidavit that the plaintiffs have filed this suit for the relief of declaration against the defendants. The defendant No.20 is died on 25-04-2017 and it is necessary to bring the Legal representatives of the deceased defendant No.20 to proceed with the case. Hence, they prayed to allow the application.

3. The counsel for defendant No.1 and 2 have filed detailed objections to the present application and contended that the plaintiffs have filed this Application after lapse of 2542 days nearly 7 years. Hence, they prayed to dismiss the present application.

4. Heard the arguments of counsel for the plaintiffs and defendant No.1 and 2 and perused the materials made available on record at this stage.



5. The points that would arise for the consideration of this court are as follows:-

POINTS

1. **Whether the applicant/ plaintiffs have made out sufficient grounds to allow the application?**
2. **What order?**

6. The findings of this court on aforesaid points are as follows:-

Point No.1: In the **Negative**

Point No.2: **As per final order for the following:-**

REASONS

7. **Point No.1:-** I have perused the application, its accompanying affidavit, pleading and materials made available on record at this stage by both the sides.

8. On perusal of documents, Order sheet, the plaintiffs have filed this application for bringing the LR's of Defendant No.20. On perusal of the plaint, defendant No.8 to 29 have been impleaded themselves and there is no claim against the defendant No.8 to 29. The LR's of defendant No.20 neither necessary parties nor proper parties of the suit. Therefore, the presence of the LR's of defendant No.20 is not necessary.



9. Further, the plaintiffs have challenged order of the dismissal of I.A.No.31, before the the Hon'ble High Court of Karnataka, Dharwad Bench, in W.P.No.103394/2023 and the Hon'ble High Court of Karnataka, Dharwad Bench, have clearly observed that in the present suit there is no claim against the defendants No.9 to 24 continued in the suit despite no relief is claimed against them. Hence, in view of the above observation made by the Hon'ble High Court of Karnataka, Dharwad Bench, the legal representatives of the deceased defendant No.20 are not necessary parties to the suit. The conduct of the plaintiffs clearly reveals that to drag the proceedings to one or other reason by filing interim applications. The plaintiffs have filed this present Application when the matter is posted for cross of DW-1. Accordingly this court answers point No.1 in the Negative.

10. Point No.2:- In view of the foregoing observations and discussions, this Court proceeds to pass the following:

ORDER

The IA No.40 filed U/O. 22 Rule 4, 9 of
CPC and Section 5 of Limitation Act is
hereby rejected with cost of Rs.1,000/-.

Civil Judge and JMFC,
Savanur