

28.3.2024.

**Orders on IA U/O 22 Rule 4 of CPC, IA U/O 22
Rule 9 of CPC and IA U/s.5 of Limitation Act**

The plaintiff has filed these applications and sought to bring L.Rs of deceased defendant No.3 on record by condoning the delay.

2. The plaintiff has sworn to an affidavit in support of IA and stated that the defendant No.3 died on 21.3.2018 leaving behind her L.Rs D.3(a to e). The plaintiff could not trace the addresses of L.Rs of deceased defendant No.3 in time. Hence, there is a delay. Hence prays to allow the applications.

3. After service of IA notice the D.3(a to c, e, f & g) have remained absent and Deft.3(d) is reported as dead.

3. Perused the records. Heard arguments.

4. The suit is one for the relief of partition and separate possession. Therefore, the right to sue and right to prosecute survives against the L.Rs of deceased defendant No.3. Apart from this the plaintiff has properly explained the delay. Therefore, it is just and proper to allow the applications. Hence the following:

ORDER

The applications filed by the plaintiff U/O 22 Rule 4, IA No.22 Rule 9 of CPC and IA U/s.5 of Limitation Act are hereby allowed.

The delay caused in bringing the L.Rs of deceased defendant No.3 is hereby condoned and abatement order is set aside.

The Defendant No.3(a to c, e to h) are brought on record as L.Rs of deceased defendant No.3.

The plaintiff shall amend the plaint and furnish amended plaint.

For amendment and amended plaint call on 4.4.2024.

Senior Civil Judge, Sedam.