

ORDERS ON IA No. 5

The present application has filed by the DHr. U/s 50 R/w Sec. 151 of CPC seeking to bring the proposed Lrs of JDr as JDr No. 1(a) to 1(d) on record.

2. In support of the said application affidavit is filed wherein, stated that during the pendency of the petition, the JDr by name Narayanappa was died on 02-11-2017 leaving behind his wife and children as his legal heirs and successors, as mentioned in the application. After the death of JDr, right to sue survives on LR's shown in the application. Hence the LR's of deceased JDr are to be come on record as legal heirs. On these grounds and such other grounds he prayed to allow said applications.

3. In pursuant to the notice issued to LR's of JDr, the proposed JDr 1(b) has filed his objection to said application wherein, he stated that the JDr was died earlier to execution of decree. Hence the decree passed against the JDr is not binding on him and further stated that he has filed regular appeal before the Senior Civil Judge at KGF against the DHr in RA No. 32/2018. The said RA is still pending. Hence this application is not maintainable. On these grounds and such other grounds he prayed for reject the application. In spite of service of notice, the proposed JDr 1(a), (c) and (d) have not appeared and have not filed any objection to said application. Hence their objection is considered as nil.

4. Heard on both side and perused the materials available on record.

5. On perusal of entire records, it was reported the death event of JDr by name Narayanappa on 15-07-2017. The said JDr was died on 02-11-2017, no death certificate has furnished. Hence this application for bring the LR's. of JDr on record. On perusal of entire records it appears that the present petition is filed by the DHr alleging that the JDr has dis-obeying the Judgment and decree passed in OS 270/2017. During the proceedings the JDr was reported as dead. As per section 50 of CPC clearly stated that before decree has been fully satisfied, the Dhr may apply to the court for execution of Decree against LR's of deceased. Hence in view of the same, this court proceed to pass the following :

ORDER

The IA No. 5 filed by the DHr. U/s 50 R/w Sec. 151 of CPC is hereby allowed.

The DHr is hereby directed to carry out the necessary amendment and filed amended petition.

Call on

(DEEPU B.C.)
Addl. C.J. and JMFC, Bangarpet