

ORDERS ON I.A

The present application is filed under appellant under Order 6 Rule 17 of CPC seeking amendment of the cause title.

2. In the affidavit filed in support of the application, the appellant has sworn to the fact that due to typographical error, the names of the LRs of deceased Amasegowda was left out and they are to be impleaded in the suit as they were parties to the proceedings before the trial court.

3. The learned counsel for the respondents has submitted '**no objections**' to the application.

4. The present appeal is preferred challenging the judgment and decree passed by the court of learned Civil Judge & JMFC, Krishnarajpet in O.S.No.240-1996 dated 27-03-2008. The suit before the trial court was one for the relief of declaration and permanent injunction. On Amasegowda was the defendant No.2 before the trial court. After his death, his LRs were arrayed as party to the proceedings before the trial court. However at the time of preferring

the appeal, all the LRs a deceased Amasageowda have not been arrayed as party to the proceedings. Only when this court had sought for clarification, the appellant has come up with the present application. It is pertinent to note here that the appellant ought to have filed the application under Order I Rule 10 (2) of CPC. He has brought the present application under Order VI Rule 17 of CPC. However mere quoting of wrong provision is no ground for dismissal of the application. The matter is 16 years old. The application deserves to be considered on merits in order to avoid further delay in the matter. As the LRs of the deceased Amasegowda were parties to the proceedings, before the trial court, their presence is necessary for just and complete adjudication of the appeal. In the absence, no effective judgment could be passed by this court. Thus for these reasons, this court is of the considered opinion that the application filed by the appellant deserved to be allowed. In the light of foregoing discussions, this court proceeds to pass the following

O R D E R

I.A filed by the appellant is

hereby allowed.

The appellant is permitted to carry out amendment of the memorandum of appeal memo as sought for i.e. to bring the remaining LRs of deceased Amasegowda on record.

D.Hr shall carry out amendment of the memorandum of appeal within a period of 7 days and file amended memorandum of appeal by next date of hearing.

For filing of amended memorandum of appeal by 04-03-2024

Senior Civil Judge & JMFC,
Krishnarajpet