

ORDERS ON I.A.NO.20 TO 22

These are the applications filed by the plaintiffs to bring the legal representatives of the deceased defendant No.18 on record by condoning the delay and by setting aside the order of abatement.

2. These applications are supported with the affidavits of the plaintiff No.7. In his affidavits, he has stated that they have filed the present suit for partition and separate possession in respect of the suit schedule properties. It is stated that the defendant No.18 is expired on 25.09.2015 leaving behind him, his wife and two children as his legal heirs. However, his death was not known to the plaintiffs. Recently, on 27.06.2016 the counsel for the defendant No.20 has filed a memo with regard to the death of defendant No.18 and at that time, these plaintiffs came to know about the same. It is stated that these plaintiffs were not aware of the death of the defendant No.18, they could not file the allegations well within time. It is stated that the legal heirs of the defendant No.18 are very much essential for proper and fair adjudication of the case. On these grounds, it is prayed to allow the applications.

3. After filing the applications, this Court has issued the noticed to the LRs of the defendant No.18. The proposed defendant No.18(a) to (c) have appeared through their counsels and have not opted to file any objections. They have submitted the applications may be allowed and they have no objections. It is important thing to note that the present suit is one for the partition and separate possession in respect of the suit schedule

properties. The defendant No.18 is added as the proper and necessary party in the present suit. In view of these things, the right to sue accrues against the LRs of the defendant No.18 even after the death of the said defendant No.18. Hence, the plaintiffs have filed these applications. It is true that there is an inordinate delay in bringing the legal representatives of the deceased. But, that it does not take away the rights of the plaintiffs in bringing the LRs of the defendant No.18, keeping in view of these things, I am of the opinion that if the LRs of the defendant No.18 are brought on record and condoning the delay and by setting aside the order of abatement, definitely, it would meet the ends of justice. Hence, I proceed to pass the following:-

ORDER

The I.As No.20 to 22 filed by the plaintiffs are hereby allowed.

No order as to costs.

The LRs of the defendant No.18 are brought on record.

Call on for amendment of the plaint and to submit the amended plaint by :-

Senior Civil Judge,
Maddur.