

COMMON ORDERS ON IA NO.23 to 26

IA No.23 is filed under order 22 Rule 3 of CPC to implead LR's of plaintiff as plaintiff No.1 to 4.

IA No.24 is filed under order 22 Rule 9 of CPC to set aside the order abatement of the suit.

IA No.25 is filed under section 5 of the Limitation Act to condone the delay in filing application to set aside abatement of of the suit.

IA No.26 is filed under order 22 Rule 4 of CPC to implead another LR of plaintiff as defendant No.36.

2. Applicant No.1 of IA No.23 sworn to separate IA No.23 to 25 affidavits to IA No.23 to 26 and stated that his father filed present suit for partition and separate possession. He died on 08.08.2024. The applicant No.2 to 4 are his siblings. His father has another son by name Nagaraju T.C. he did not co-operate with the applicants of IA No.23 to 25 to come on record as LR. Therefore, they have filed IA No.23 to implead them as LR's. They have filed IA No.24 and 25 to set aside the order of abatement of the suit and also to condone the delay in filing application to set aside the order of abatement. The applicant No.1 of IA No.23 also filed IA No.26 to implead another LR of the plaintiff as defendant No.36.

3. The defendant No.2 to 4 and 11 to 16 have filed objection to IA No.23 to 25 stating that proposed plaintiff No.1(a) sworn to false affidavit.

The plaintiff died on 08.08.2024. His LR's are not made any efforts to come on record well within the time. They simply blame the court that the Presiding Officer was transferred and therefore they could not inform the death of the plaintiff. There is inordinate delay in bringing LR's of the plaintiffs on record. Their ignorance of law could not be a reason to set aside the order of abatement and to condone the delay. They have not shown any bonafide reasons for the delay. The present applications are filed after lapse of 6 months from the date of death. Therefore, it is prayed to reject the application.

4. The proposed defendant No.36 appeared through his counsel and submitted that he has no objection for IA No.26.

5. Heard and perused.

6. The point that arises for my consideration is as follows ;

Whether the applicants of IA No.23 have made out sufficient grounds to implead them as LR's of plaintiff and also to implead another LR of plaintiff as defendant No.36, to set aside the order of abatement of the suit and also condone the delay in filing the applications?

7. My answer to the above point is in the **Affirmative** for the following ;

REASONS

8. The present suit is filed in the year 2016 for partition and separate possession. As per the affidavits filed to the present applications the plaintiff died on 08.08.2024. The suit stands abated within 60 days from the date of death. The LR's of the plaintiff should have filed application to set aside the order of abatement within 90 days from the date of abatement. But they have filed IA No.23 to 26 after lapse of period of limitation. However, they have filed applications to condone the delay. It is stated in affidavit to IA No.24 that as earlier Presiding Officer was transferred they could not meet their counsel until posting of present Presiding Officer. Therefore, it is their contention that they could not file these applications within the period of limitation. The said reason is not sufficient to condone the delay in filing the present applications. However, in order to give an opportunity to the LR's of the plaintiff to proceed with the case it is just and necessary to allow them to come on record by condoning the delay in filing these applications. However, they have to be imposed costs for causing delay. Accordingly, the above point is answered in the **"Affirmative"**. Hence, this court proceeds to pass the following:

ORDER

IA No.23 is filed Under
Order 22 Rule 3 of CPC is

hereby allowed with costs of Rs.300/-.

IA No.24 is filed Under Order 22 Rule 9 of CPC is hereby allowed with costs of Rs.300/-.

IA No.25 is filed Under Section 5 of the Limitation Act is hereby allowed with costs of Rs.300/-.

IA No.26 is filed under order 22 Rule 4 of CPC is hereby allowed with costs of Rs.300/-.

The LR's No.1 to 4 of plaintiff are permitted to come on record as plaintiff No.1(a) to (d).

The LR's No.1(a) to (d) are permitted to implead another LR of plaintiff as defendant No.36.

For amendment and for amended plaint on 14.07.2025

**Addl. Senior Civil Judge & JMFC.,
Maddur.**