

**COMMON ORDERS ON I.A.No.VIII to X U/ORDER 22 RULE 4, ORDER 22
RULE 9 R/w Sec.151 OF CPC AND SEC.5 OF LIMITATION ACT**

The applicants/plaintiff No.6 filed these applications seeking to bring LRs of defendant no.11 on record by setting aside the order of abatement. The plaintiff No.6 has also filed applications Under Order 22 rule 4, Order 22 Rule 9 R/W/S 151 and U/Sec.5 of Limitation Act seeking to condone the delay in filing application to bring LRs of defendant no.11 on record.

2. In the affidavit filed in support of applications the plaintiff No.6 has submitted that the 11th defendant Smt. Rangamma W/o Late Singegowda died on 09.02.2019 leaving behind the person mentioned in the application schedule as her class one heirs, except these persons there are no other persons nor there are no other legal heirs. Further submits that no prejudice will be caused to the other side if the persons mentioned in the application schedule are brought on record and permitted to conduct the above case, on the other hand it not only facilitates proper administration of justice and avoids multiplicity of proceedings.

3. Further submits that she could not file the application well in time due to her ill-health as well as Covid-19. No prejudice will be caused to the other side, if the persons mentioned in the application schedule are brought on record by set siding the abatement if any. Thus there is delay of in filling the application in bringing the legal heirs. The delay if any is only bonafide one and unintentional one. No prejudice will be caused to the other side, if

the persons mentioned in the application schedule are brought on record by condoning the delay.

4. Despite of service of notice of IA defendant no.11 Lrs remained absent.

5. Heard.

6. Perused the records and applications filed.

7. The following points arise for my consideration.

1. Whether plaintiffs have made out a grounds to allow the applications?

2. What order?

8. My findings to the above points are as follows.

Point No.1 :- In the **Affirmative**.

Point No.2 :- As per final order,
for the following:

REASONS

9. **Point No.1** : The suit is filed for the relief of partition and separate possession against the defendants. During pendency of the proceedings, death of defendant no.11 was reported to court. The plaintiffs filed applications IA No.VIII to X seeking to bring LR's of defendant no.11 on record by set-aside the abatement and to condone the delay in filing applications to bring the LR's of defendant no.11 on record. In the affidavit filed in support of applications the plaintiffs have stated that due to Covid-19 SOP was operating they could not able to bring the LR's of deceased defendant no.11 within stipulated period. Since this suit is filed for partition, right to sue survives upon the defendant no.11 LR's,

if applications are rejected without considering the reasons shown for the delay more injustice is likely to be caused to plaintiffs rather than the defendants and suit will suffer from non-joinder of necessary parties. It may also lead to multiplicity of proceedings. The reasons shown by the plaintiffs for the delay in filing application to bring LRs are believable ones, there is nothing to disbelieve the reasons assigned by the plaintiffs for the delay. There are no grounds to say that the plaintiffs have intentionally not brought the LRs on record well within time. Hence, considering grounds urged in the applications and also for the reason stated in the affidavit I am of the view that applications filed by the plaintiffs deserve to be considered by imposing reasonable cost. Accordingly, I proceed to pass the following

ORDER

I.A.NoVIII to X filed by the plaintiffs are hereby allowed.

The delay in filing LRs application is hereby condoned. The order of abatement caused in filing application to bring LRs of defendant no.11 on record well within time is hereby set aside. The plaintiffs are permitted to bring defendant no.11 LRs on record.

For amendment and amend plaint.

Call on. 10.11.2022.

**Civil Judge and J.M.F.C. Nagamangala and
C/C. Addl. Civil Judge and J.M.F.C.
Nagamangala.**