

Order on I. A .No.1 to III

The application I.A.No.I is filed U/O 22 Rule 4 of CPC to implead the legal heirs of deceased respondent No.1, I.A.No.II is filed U/O 22 Rule 9 of CPC to set aside the abatement order passed against the deceased respondent No.1, and I.A.No.III is filed U/sec 5 of the Limitation Act to condone the delay in impleading the legal heirs of deceased respondent No.1.

2. All the applications are supported by the affidavit of Appellant No.1 and it is stated that they were not aware about the death of respondent No.1 till it was reported before the court. It is further sworn that after reporting the death of respondent No.1, the Appellants have filed the present application and there is delay while impleading the legal heirs of deceased respondent No.1. Hence prayed to allow the applications.

3. After filling application, notices were issued to the legal heirs of deceased respondent No.1.

4. Heard the arguments of counsel for both parties.

5. The Appellants have filed the present applications to implead the legal heirs of deceased respondent No.1. It is stated in the affidavit accompanying to the application that the Appellants were not aware about the death of respondent No.1 until it was reported before the court. The Appellants have filed the appeal against the respondents being aggrieved by the judgment and decree passed in O.S.No.461/2014. The cause of

action survive against deceased respondent No.1. The Appellants by swearing the affidavit has stated the reason for delay in filing the applications to implead the legal heirs of deceased respondent No.1. By considering the said reasons, the delay in filing the application to implead the legal heirs has to be condoned and the order of abatement has to be set aside. Hence this court proceeds to pass the following:

ORDER

The applications I.A.No.I to III filed by the Appellants are hereby allowed.

The Appellants are hereby permitted to implead the legal heirs of deceased respondent No.1 as respondent No.1(a) & (b) and carryout necessary amendment.

The delay in filing impleading application is hereby condoned and the abatement order passed against respondent No.1 is hereby set aside.

No order as to cost.

For amendment and amended appeal memo

Call on : 14.08.2024.

(Dictated to the Stenographer, transcribed by him on computer, revised, corrected and then pronounced by me in the open Court on this the 23rd day of July, 2024)

**Sandesh Prabhu. B)
Senior Civil Judge & J.M.F.C
H.D.Kot**