

COMMON ORDERS ON IAS'

IA filed U/Order XXII Rule 3 R/W 151 of CPC by the plaintiff No.2 seeking permission to bring the legal representatives of deceased plaintiff No.1 on record to proceed with the case.

Another application filed U/Order 22 Rule 9 of CPC seeking an order to set aside the abatement against the legal representatives of deceased plaintiff No.1 in the interest of justice and equity.

Another application filed U/Section 5 of Limitation Act, praying to condone the delay in bringing the legal representatives of deceased plaintiff No.1 on record.

2. In the affidavits sworn by the plaintiff No.2 annexed to the above 3 applications it is stated that, the plaintiff No.1 has filed this suit for partition and separate possession with respect to the suit schedule properties. The case is posted for further cross-examination of DW.1. At this stage, his sister i.e., plaintiff No.1 was died on 17.05.2025 leaving behind her legal heirs i.e., minor children. The deceased plaintiff No.1 and her children are living with him since last several years. The husband of the plaintiff No.1 and father of minor children are left them very long years ago. He has collected the death certificate of

his sister. He could not meet his counsel to file necessary application to bring the legal representatives of the plaintiff No.1 on record due to lack of knowledge and he is illiterate person. Hence prayed to allow the application.

3. In spite of receiving the copies of the applications and in spite of sufficient opportunity, the defendants not filed objection to these applications. Therefore, the objection to these by the defendants taken as not filed.

4. Heard the counsel for the plaintiff. Perused the materials on record.

5. The plaintiffs have filed the suit against the defendants seeking the relief of partition and separate possession with respect to the suit schedule properties. During the pendency of the suit the plaintiff No.1 died on 17.05.2025. The right to sue survives on the legal representative of the plaintiff No.1. Hence, this court feel it is just and proper to allow the applications by condoning the delay in filing the applications in the ends of justice. Hence, I proceed to pass the following:

ORDER

Applications filed by the plaintiff NO.2 U/Order XXII Rule 3 R/W 151 of CPC, U/Order 22 Rule 9 of CPC and application filed U/Section 5 of Limitation Act are hereby allowed.

The plaintiff No.2 is permitted to bring the legal representatives of the deceased plaintiff No.1 on record **as plaintiff No.1(a) and 1(b).**

Judge,
Court of Addl. S.C., & MACT
Mysuru

ORDER ON I.A.

The Counsel for the applicant/plaintiff No.2 has filed this application U/Order XXXII Rule 3 of CPC to appoint himself as court guardian of minor plaintiff No.1 (a) & (b) to continue the proceedings in the above case.

2. In the accompanying affidavit it is sworn by the plaintiff No.2 that, his sister i.e., plaintiff No.1 has filed this suit against the defendants for the relief of partition and separate possession with respect to the suit schedule properties. The case is posted for further cross-examination of DW.1. At this stage, his sister i.e., plaintiff No.1 was died on 17.05.2025 leaving behind her legal heirs i.e., minor children. The deceased plaintiff No.1 and her children are living with him since last several years,. The husband of the plaintiff No.1 and the father of the minor children are left to them very long years ago. After the death of the plaintiff No.1, plaintiff No.2 taking care and custody of the children of

deceased plaintiff No.1. As such he is able to take care, safeguard the interest of minor children of plaintiff No.1 to continue the suit proceedings. Hence, this application and prays to allow the same.

3. In spite of receiving the copies of the applications and in spite of sufficient opportunity, the defendants not filed objection to these applications. Therefore, the objection to these by the defendants taken as not filed.

4. Heard the counsel for the plaintiff. Perused the materials on record.

5. The plaintiff No.1 along with plaintiff No.2 have filed this suit against the defendants seeking the relief of partition and separate possession with respect to the suit schedule properties. The case is posted for further cross-examination of DW.1. At this stage, his sister i.e., plaintiff No.1 was died on 17.05.2025 leaving behind her legal heirs i.e., minor children. Admittedly, the Lrs of plaintiff No.1 and 2 are minors and plaintiff No.2 is brother of plaintiff No.1. Therefore, as the plaintiff No.2 is none other than the maternal uncle of the minor children there is no impediments for this court to allow the application. Hence, I proceed to pass the following:

ORDER

I.A. filed U/Order XXXII Rule 3 R/w.
Sec. 151 of CPC is hereby allowed.

The plaintiff No.2 is hereby appointed as guardian to minor legal representatives of plaintiff No.1 i.e., plaintiff No.1(a) and (b) to represent them in this case.

For amendment of plaint. Call
26.09.2025.

Judge,
Court of Addl. S.C., & MACT
Mysuru