

Order on I. A .No.IX to XI

The application I.A.No.IX is filed by the plaintiffs U/O 22 Rule 4 of CPC to implead the legal heirs of deceased defendant No.1, I.A.No.X is filed U/O 22 rule 9 of CPC to set aside the abatement order passed against the deceased defendant No.1 and I.A.No.XI is filed U/sec 5 of the Limitation Act to condone the delay in filing the abatement application.

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

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

4. Heard the arguments of counsel for plaintiffs and defendants.

5. The plaintiffs have filed the present applications to implead the legal heirs of deceased defendant No.1. It is stated in the affidavit accompanying to the application that the plaintiffs were not aware about the death of defendant No.1 until it was reported before the court. The plaintiff has filed the suit against the defendants for the relief of partition and separate possession. The cause of action survive against deceased defendant No.1. The plaintiffs by swearing the affidavit

has stated the reason for delay in filing the applications to implead the legal heirs of deceased defendant 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.IX to XI filed by the plaintiffs are hereby allowed.

The plaintiffs are hereby permitted to implead the legal heirs of deceased defendant No.1 as defendant No.1(a) to 1(d) and carryout necessary amendment.

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

No order as to cost.

For amendment and amended plaint.

Call on : 21.03.2024.

(Dictated to the Stenographer, transcribed by him on computer, revised, corrected and then pronounced by me in the open Court on this the 06th day of March, 2024)

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