

### **Order on I.A.No.V & VI**

The application I.A.No.V is filed by the plaintiffs U/O 22 Rule 4 of CPC to implead the legal heirs of deceased defendant No.5 and I.A.No.VI is filed U/O 32 Rule 4 of CPC to appoint the proposed defendant No.5(a) as guardian of minor defendant No.5(b) and (c).

2. Both applications are supported by the affidavit of plaintiff No.1 and it is sworn that the defendant No.5 was died on 20.11.2023 and the opponents are his only legal heirs. It is also sworn that the proposed defendant No.5(b) and 5(c) are the minors and they are represented by their mother and natural guardian who is proposed defendant No.5(a). Hence prayed to allow the both application.

3. After filling application, notices were issued to the legal heirs of defendant No.5 and they have appeared before the court through their counsel and submitted no objection to both applications

4. Heard the arguments of counsel for both parties.

5. The plaintiffs have filed the present applications to implead the legal heirs of deceased defendant No.5 and also to appoint the proposed defendant No.5(a) as guardian of minor defendant No.5(b) and (c). The plaintiffs have filed the present suit against the defendants for partition and separate possession and cause action survive against legal heirs of deceased defendant No.5. The present application to implead

the legal heirs is filed within the period of limitation. Therefore the said impleading application deserves to be allowed. The plaintiffs have also filed another application to appoint the defendant No.5(a) as guardian of minor defendant No.5(b) and 5(c). The defendant 5(a) is none other than the natural mother of minor defendant No.5(b) and (c) and the said defendant No.5(a) has submitted no objection to appoint her as minor guardian. Since she is the mother of minor defendant No.5(b) and 5(c) and since there is no adverse interest between them, she is the proper person to be guardian of minor defendant No.5(b) and (c). Hence the said application filed by the plaintiffs also deserves to be allowed. Therefore this court proceeds to pass the following:

### **ORDER**

**The application I.A.No.V filed U/o 22 Rule 4 of CPC and I.A.No.VI U/o 32 Rule 4 of CPC are hereby allowed.**

**The plaintiffs are hereby permitted to implead the legal heirs of deceased defendant No.5 as defendant No.5(a) to 5(c) and carry out necessary amendment.**

**Further, the defendant No.5(a) is hereby appointed as minor guardian of minor defendant No.5(b) and 5(c).**

**No order as to cost.**

**For amendment and amended plaint.**

**Call On: 03.04.2024.**

(Dictated to the Stenographer, transcribed by him on computer, revised, corrected and then pronounced by me in the open Court on this the 20<sup>th</sup> day of March, 2024)

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