

COMMON ORDERS ON I.A. NO.2 TO 4

The plaintiff has filed application/I.A. No.II/2023 U/order 22 Rule 4 of CPC seeking permission to bring the legal representatives of deceased defendant No.1 on record to prosecute the suit.

The plaintiff has filed another application/I.A. No.III/2023 U/order 22 Rule 9 of CPC for set-aside the abatement order against the deceased defendant No.1.

Another application/I.A. No.IV/2023 is filed U/sec.5 of Limitation Act seeking to condone the delay and allow the application.

Heard arguments. Perused the pleadings, affidavit and materials on record.

The point for consideration is whether the relief prayed for in the above applications can be granted?

The above point is answered in the **affirmative** for the following:

REASONS

The suit is filed against the defendants seeking for the relief of declaration and permanent injunction over the suit schedule property.

During the course of trial, the counsel for plaintiff filed a memo stating that, defendant No.1 was died on 02.09.2022 and L.Rs of the defendant No.1 are very essential to the case, since defendant No.1

was died, his legal representatives are bring them on record, if not so, there is no possible to decide the real controversy between the parties.

On the death of defendant No.1 the cause of action would survive on his L.Rs to condone the delay and to set-aside the abatement who claimed right are on record, for effectually, fully and finally decide the dispute involved in the suit. The opponents can be compensated for the delay in filing these applications by imposing costs. No irreparable injury could be caused to the opponents, if the applications are allowed.

Hence, the point for consideration is answered in the affirmative. Hence, the following:-

ORDER

I.A. No.II/2023 filed U/order 22 Rule 4 of CPC is hereby allowed.

I.A. No.III/2023 filed U/order 22 Rule 9 of CPC is hereby allowed. The abatement is set-aside.

I.A. No.IV/2023 filed U/sec.5 of Limitation Act is hereby allowed on cost of Rs.500/- payable to TLSA, H.D. Kote.

The proposed LR's of deceased defendant No.1 i.e., defendant No.1(a) and 1(b) are brought on record as legal representative of deceased defendant No.1.

The counsel for plaintiff shall amend the
plaint as indicated in the applications.

For amendment and to furnish amended
plaint by 06.02.2024

Addl. Civil Judge and JMFC.,
Heggadadevanakote.