

**COMMON ORDERS ON I.As No.1 to 4**

The Plaintiff filed application/I.A. No.1 under Order 32 Rule 1 & 2 of CPC seeking permission to appoint Nandini as a natural guardian on behalf of the minor legal representatives of defendant No.5.

The applicant has filed another application/I.A. No.2 U/order 22 Rule 3 & 4 of CPC seeking permission to bring the legal representatives of deceased defendant No.5 on records to prosecute the suit.

The applicant has filed another application/I.A. No.3 U/order 22 Rule 9 of CPC for set-aside the abatement order against the deceased defendant No.5.

Another IA No.4 is filed U/sec.5 of Limitation Act seeking to condone the delay and allow the application.

In spite of service of notice, the L.Rs of deceased defendant No.5 not appeared, hence they are placed Ex-parte.

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**

During the course of trial, the applicants filed a memo stating that, defendant No.5 was died on 25.02.2020 and L.Rs of the defendant No.5 are very essential to the case, since defendant No.5 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. There is no prejudice will be caused to the plaintiff, if the application is allowed.

On the death of defendant No.5 the cause of action would survive on his legal representatives. Hence, it is necessary 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.1 filed U/order 32 Rule 1 & 2 of CPC is hereby allowed.

I.A.2 filed U/order 22 Rule 3 & 4 of CPC is hereby allowed.

I.A.3 filed U/order 22 Rule 9 of CPC is hereby allowed. The abatement is set-aside.

I.A.4 filed U/sec.5 of Limitation Act is hereby allowed.

The proposed LRs of deceased defendant No.5 are brought on record as legal representatives of deceased defendant No.5.

Smt.Nandini is hereby appointed as a minor guardian of the L.Rs of deceased defendant No.5.

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

For amendment and to furnish amended plaint by

Addl. Civil Judge and JMFC.,  
Heggadadevanakote.