

ORDERS ON I.A. NO.XII TO XIV

The applicant has filed application/I.A. No.XII U/order 22 Rule 3 of CPC seeking permission to bring them as the legal representatives of deceased plaintiff No.2 on record to prosecute the suit.

The applicant has filed another application/I.A. No.XIII U/order 22 Rule 9 of CPC for set-aside the abatement order against the deceased plaintiff No.2.

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

Sri.GNN, Advocate filed vakalath for the applicant/L.Rs of deceased plaintiff No.2 i.e., plaintiff No.2(a) & (b).

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 applicant filed a memo stating that,

plaintiff No.2 was died on 21.01.2024, hence the L.Rs of the deceased plaintiff No.2 are very essential to the case, since plaintiff No.2 was died, his legal representatives are to be brought on record, if not so, there is no possible to decide the real controversy between the parties.

On the death of plaintiff No.2 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.XII filed U/order 22 Rule 3 of CPC is hereby allowed.

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

I.A. No.XIV filed U/sec.5 of Limitation Act is hereby allowed.

The proposed LRs of deceased plaintiff No.2 i.e., plaintiff No.2(a) and 2(b) are brought on record as legal representative of deceased plaintiff No.2.

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

For amendment and to furnish amended
plaint by 12.08.2024

Addl. Civil Judge and JMFC.,
Heggadadevanakote.