

**PRESENT: Sri. Aravindra B.C., B.A., L.L.B.,
Senior Civil Judge & JMFC,
K.R. Nagar.**

Dated this the 23rd day of June, 2025

Appellants : Sri. Siddarammegowda & Another
-V/s-

Respondents : Sri. Swamygowda & Others

Applicant : Sri. Siddarammegowda,
S/o Chikkegowda,
Aged about 55 years,
R/at: Hosakotekoppalu village,
Chunchanakatte Hobli,
K.R.Nagar Taluk,
Mysuru District.

..... 1st appellant
(By Sri. L.V.R., Adv.)

-V/S-

Opponents : Sri. Ramegowda,
Since deceased Rpt. by LRs.
3(a). Smt. Puttamma,
W/o Late Ramegowda,
Aged about 50 years.



3(b). Smt. Jayasheela,
W/o Shivannegowda,
D/o Late Ramegowda,
Aged about 30 years.

3(c). Sri. Jayanna,
S/o Late Ramegowda,
Aged about 28 years.

R3(a to c) are R/at:
Hosakotekoppalu village,
Chunchanakatte Hobli,
Saligrama Taluk,
Mysuru District.

3(d). Smt. Jayanthi,
W/o Kenchegowda,
D/o Late Ramegowda,
Aged about 26 years,
R/at: Bettadatunga Koppalu
Village, Bettadapura Hobli,
Periyapattana Taluk,
Mysuru District.

**..... LRs respondent No.3
(R3(a to d) Absent)**

Provision under which the application is filed	Under Order 22 Rule 4 R/w Section 151 of CPC, Under Order 22 Rule 9 R/w Section 151 of CPC and Under Section 5 of Limitation Act.
Relief Sought For	Seeking to bring the LRs, to set aside the statutory abatement and to condone the delay.



The date on which the application is filed	27.06.2024
Number of the application	IA No.II to IV
The date on which the objection is filed by the different opponents	---
The date on which the orders was passed on the said application	23.06.2025

ORDER ON IA.No.II to IV

The 1st appellant has filed I.A.No.II Under Order 22 Rule 4 R/w Section 151 CPC seeking to bring the L.Rs of the respondent No.3 on record.

2. The I.A.No.III is filed by the 1st appellant Under Order 22 Rule 9 R/w Section 151 of CPC seeking to set aside the statutory abatement.

3. The I.A.No.IV is filed by the 1st appellant Under Section 5 of Limitation Act seeking to condone the delay in filing this application.

4. These applications are filed by the counsel for the 1st appellant stating that, the respondent No.3/



Sri.Ramegowda was died on 15.07.2023 leaving behind his legal heirs and they have right to sue survives on them. Hence it is just and necessary to condone the delay in bringing the L.Rs on record. If these applications are allowed no harm or injury will be caused to the respondents. Hence prayed to allow the applications.

5. Heard and perused the record.

6. Now the following points arise for consideration of this Court:

1. Whether the applications filed by the applicant Under Order 22 Rule 4 R/w Section 151 of CPC, Under Order 22 Rule 9 R/w Section 151 of CPC and Under Sec.5 of Limitation Act are deserves to be allowed?

2. To what order?

7. The findings of this Court on the above said point are as under:



Point No.1 : In the Affirmative
Point No.2 : As per final order
For the following;

REASONS

8. **Point No.1:-** The appellants/defendant No.5 & 6 have preferred an appeal against the judgment and decree in OS No.110/2008 passed by the learned Prl. Civil Judge and JMFC, K.R.Nagar. The plaintiff has filed suit against defendants for the relief of partition and separate possession.

9. During pendency of the appeal, the respondent No.3 was reported dead leaving behind the opponents as his legal heirs. The right of sue is accrued against the LRs of the deceased respondent No.3. Further there is no dispute in that regard. The LRs of respondent No.3 are the legal heirs of the respondent No.3. Therefore, the reasons assigned by the 1st appellant is satisfactory to



condone the delay of limitation. Further, the fact of lawful possession by the parties is a matter of adjudication. Thereby, no prejudice will be caused to the legal heirs of respondent No.3. If the application is rejected it may lead multiplicity of proceedings. Hence, the applications filed by the 1st appellant are deserves to be allowed. **Hence, this Court answered point No.1 is in the Affirmative.**

10. **Point No.2:-** For the above discussion on point No.1, this court proceed to pass the following:

ORDER

The I.A.No.II to IV filed by the 1st appellant Under Order 22 Rule 4 R/w Section 151 of CPC, Under Order 22 Rule 9 R/w Section 151 of CPC and Under Section 5 of Limitation Act respectively are allowed.



For carrying out amendment and to file
the amended memorandum of appeal by:
08.07.2025.

*[Dictated to the Stenographer directly on computer, typed by her,
corrected and then pronounced by me in the Open Court on this the **23rd**
day of June, 2025]*

**(ARAVINDRA B.C.)
SENIOR CIVIL JUDGE & JMFC,
K.R.NAGAR.**