

: ORDERS ON I.A.No.VI to VIII :

The 1st appellant has filed I.A.No.VI 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.VII 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.VIII 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.Vasanthasena was died on 27.12.2022 leaving behind his legal heirs.

5. After filing of these applications, this court issued notice to the LR's of respondent No.3. In response to the notice, the LR's of respondent No.3 have appeared before this court. But, they did not file any objection to these applications.

6. Perused the record. The appellants/defendants have preferred an appeal against the judgment and decree in OS No.272/2014 passed by the learned Addl. Civil Judge and JMFC, K.R.Nagar. The respondent No.1/plaintiff has filed suit against appellants/defendants for the relief of partition and separate possession. 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, 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 proceed to pass the following;

:ORDER:

I.A.No.VI to VIII 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:
08.01.2025.

**Senior Civil Judge and JMFC,
K.R.Nagar.**