

ORDERS ON IA No.I to III

The petitioner has filed I.A.No.I Under Order 22 Rule 4 of CPC seeking permission to bring the L.Rs of the respondent No.3 on record.

2. The petitioner has also filed I.A.No.II Under Order 22 Rule 9 of CPC and prays for set aside the statutory abatement against the respondent No.3

3. I.A.No.III is also filed by the petitioner Under Section 5 of Limitation to condone the delay to filing the application.

4. These applications are filed by the counsel for the petitioner stating that, the respondent No.3 who died on 14.02.2023 leaving behind his legal heirs.

5. In the accompanying affidavit it is stated that, the respondent No.3 was died on 14.02.2023 leaving behind his legal heirs.

6. After filing of these applications, this court issued notice to the LRs of respondent No.3. In response to the notice, the respondent No.3(a to c) have not appeared before this court.

7. Perused the record. The petitioner/plaintiff has filed the suit in OS No.378/2007 against the defendants/respondents for the relief of partition

and separate possession with respect to the suit schedule properties. On contest, the said suit was decreed and ordered that the plaintiff is entitled 4/24th share in the suit schedule properties. Accordingly, the plaintiff/petitioner has filed FDP No.5/2021. During pendency of the said proceedings, 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 petitioner 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 applicant are deserves to be allowed. Hence, this court proceed to pass the following;

:ORDER:

The I.A.No.I to III filed by the petitioner Under Order 22 Rule 4 of CPC, Under Order 22 Rule 9 of CPC and under

Section 5 of Limitation Act are respectively allowed.

For carrying out amendment and to file the amended application by: 03.03.2026.

**Sr. Civil Judge & JMFC,
K.R.Nagar.**