

**: ORDERS ON I.A.No.II to IV:**

The applicants have filed I.A.No.II Under Order 22 Rule 3 of CPC seeking to bring the L.Rs of the appellant on record.

2. I.A.No.III is filed by the applicants Under Order 22 Rule 9 R/w Section 151 of CPC seeking to condone the delay in filing this application and set aside the statutory abatement.

3. I.A.No.IV is filed by the applicants Under Section 5 of Limitation Act.

4. These applications are filed by the counsel for the appellants stating that, the appellant Kantharaju was died on 04.12.2021 leaving behind his legal heirs who are the applicants herein.

5. In the accompanying affidavits it is stated that, the appellant was died on 14.12.2021 leaving behind them as legal heirs. The applicants have stated that, when the surveyor had visited their site to measure the property by that time they have enquired they surveyor regarding their arrival. At that time they came to know about the present proceeding and no prior notice is issues either by the Grama Panchayath or by respondent or by the surveyor. Further, during the lifetime of their father they were not aware of the present litigation nor their father informed same to them as such they were not aware of the proceedings. Thereafter, they have meet their counsel and filed the present applications. They have got good case on merits. Therefore, prays for allow these applications.

6. On the other hand the respondents have filed objection stating that, this court has given sufficient opportunity to take steps against the appellant. But, they have not taken any steps against the appellant within time. Therefore, prays for reject these applications.

7. Perused the record. The appellant/Defendant preferred an appeal against the judgment and decree in OS No.327/2015 passed by the learned Prl. Civil Judge and JMFC, K.R.Nagar. The deceased appellant filed suit against respondents/plaintiffs for the relief

of declaration and permanent injunction. During pendency of the appeal, the appellant was reported dead leaving behind the applicants as his legal heirs. The right of sue is accrued against the LRs of the deceased appellant.

8. Further there is no dispute that the applicants are the legal heirs of the deceased appellant. No doubt, the applicants have filed applications after prescribed period. Therefore, reasons assigned by the applicant 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 appellant. If the application is rejected it may lead multiplicity of proceedings. Hence, the applications filed by the applicants is deserves to be allowed. Hence, this court proceed to pass the following;

**:ORDER:**

I.A.No.II to IV filed by the applicants Under Order 22 Rule 3 of CPC, Under Order 22 Rule 9 R/w Section 151 of CPC and Under Section 5 of Limitation Act respectively are allowed and set aside the abatement order dated 05.09.2022 on cost of Rs.500/-.

Office is directed to restore the memorandum of appeal.

For carrying out amendment and to file amended memorandum of appeal by: 27.06.2024.

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