

KAMS500003022019



**IN THE COURT OF SENIOR CIVIL JUDGE & JMFC  
NANJANGUD**

**Present :** **Sri. Kamalaksha D., B.A., LL.B.,**  
Senior Civil Judge & J.M.F.C.,  
Nanjangud.

**Dated this the 28<sup>th</sup> day of August 2024**

**O.S./44/2019**

**Plaintiff** : Sundramma

**-V/s-**

**Defendants** Mahadevaiah S. and others

**I.A.VIII**

**Applicant** : Renuka  
L.Rs. Of plaintiff

**-V/s-**

**Opponents** : Mahadevaiah S. and others  
... defendants

**ORDER ON I.A.VIII**

The daughter of the deceased plaintiff has filed this application under Order 22 Rule 3(I) r/w Section 151 of C.P.C. to bring the proposed legal heirs of the deceased plaintiff in the suit for partition and separate possession.

2. In the affidavit it is sworn by the applicant mentioning that her mother died on 15.07.2023 leaving the proposed plaintiffs as legal heirs. The suit is filed for the relief of partition and separate possession. Her mother had a definite right of share over the schedule properties. Now the proposed plaintiffs being the legal heirs of the deceased plaintiff have legitimate share in the schedule properties. Hence, prayed to allow the application.

3. Per contra, the L.Rs. of defendant No.1 filed objections mentioning that the proposed plaintiffs have not produced any single piece of document as to show that they are the legal heirs of the deceased plaintiff. The legal heirs shall have prove the fact that, they are the only legal

heirs left behind the deceased Smt.Sundaramma in the suit for partition. Hence, prayed to dismiss the application.

4. Heard both sides.

5. The points that arise for consideration are as follows:-

1. Whether the legal heirs of the deceased Sundaramma have made out ground that they are to be impleaded as plaintiffs in the place of deceased mother?

2. What order?

6. The finding on the above points are as follows:

Point No.1 : In the affirmative

Point No.2 : As per final order

for the following:-

### **REASONS**

7. **Point No.1:** As aforesaid the suit is filed for partition and separate possession. During the time of trial, the original plaintiff i.e., Sundramma died left behind her legal heirs; now one of the legal heirs filed the application to bring them as legal heirs in the place of deceased

mother. The 1<sup>st</sup> defendant objected to allow the application stating that necessary document is not filed along with I.A.1. As per the information given in affidavit Sundramma died on 15.07.2023 and I.A.8 was filed on 11.08.2023. Therefore, no delay is occurred in filing of the application. The contested defendant No.1 further objected to dismiss the application taking contention of non-production of any documents by the plaintiff. However, if opportunity is given to the legal heirs of the deceased plaintiff she will produce it later. Suppose application is rejected, it will prevent legal heirs of the plaintiff to continue the matter. The right of eligibility of the children of Sundramma will be decided in the trial. Therefore, point No.1 is answered in the affirmative.

8. **Point No.2:-** In view of the findings on the above point, this Court proceeds to pass the following:

**ORDER**

I.A.VIII filed under Order 22 Rule 3(I)  
I.P.C. r/w Section 151 of C.P.C. is allowed.

The legal heirs of deceased plaintiff Sundramma are permitted to come on record as legal heirs of the plaintiff.

*(Dictated to the Stenographer, transcribed by her on computer, revised, corrected and then pronounced by me in open Court on this the 28<sup>th</sup> day of August 2024).*

**(Kamalaksha D.)**  
Senior Civil Judge & JMFC,  
Nanjangud.