

ORDERS ON I.A.IV

The plaintiff has filed I.A.No.IV under Order XXII Rule 4 R/w/Order XXII Rule 9 R/w/Section 5 of Limitation Act to bring the legal representatives of deceased defendant No.1 on record.

2. In response to the I.A.No.IV notice, defendant No.1(a & b) entered appearance before this court through their counsel and submits no objections to I.A.No.IV.

3. Heard and perused.

4. The plaintiff has filed this suit against defendant No.1 to 4 for the relief of perpetual injunction restraining the defendants or their representatives or the persons claiming through them from interfering with the possession and enjoyment of the plaintiff over the suit schedule property.

5. The Hon'ble High Court of Karnataka in **Chennaiah @ Doddachennaiah Vs. Bylappa, Since dead by his LRs.** in **RSA No.743/2011 (INJ.)** dated: 11.04.2022 held that, *'In a suit for injunction in relation to an immovable property, obviously, the legal representative of the deceased would enjoy the relief that the original party (plaintiff or defendant) would have been entitled to by virtue of the succession or inheritance in their favour and thus the suit would not abate and would have to be continued by bringing the legal representatives of the deceased on record'.*

6. In view of the above ratio laid down by Hon'ble High Court of Karnataka, there is no impediment to bring the LRs of deceased defendant No.1 on record. Apart from that, as I said earlier, defendant No.1(a & b) have submitted no objections to I.A.No.IV. Hence, I proceed to pass the following:

ORDER

I.A.No.IV filed by the plaintiff u/Order XXII Rule 4 R/w/Order XXII Rule 9 R/w/Section 5 of Limitation Act is hereby ***allowed***.

Accordingly, the delay in filing the application is condoned. Abatement of suit against defendant No.1 is hereby set aside. The plaintiff is permitted to bring the legal representatives of defendant No.1 as defendant No.1(a & b) and prosecute the suit against them.

***I Addl. Civil Judge & JMFC.,
Nanjangudu***