

COMMON ORDERS ON IA No.II to IV
FILED BY THE APPLICANT

The Applicant has filed 3 I.A.s. The IA No.II under Order XXII rule 4 of CPC and prayed to permit the L.Rs. of deceased defendant to come on record, IA.No.III U/O.XXII Rule 9 of R/w.Sec.151 of CPC and prays to set aside the abatement order against the deceased defendant and I.A.No.IV U/sec.5 of Limitation Act R/w.Sec.151 of CPC and prays to condone the delay if any in filing the L.Rs. Application.

On the other hand, counsel for Lr's of defendant files objections to IA NO.II to IV and contends that, the application is not maintainable either in law or on facts. The application is filed after 1137 days. If the application is allowed, then it should be allowed on heavy cost. The application is not filed within time limit. Hence, prays to dismiss IA No.II to IV.

Perused the applications and also supportive affidavits and also other materials available on record. I am satisfied on the grounds urged in the I.A.No.II to IV and it is necessary to bring the legal representatives of the deceased defendant on record to adjudicate the matter effective. Moreover, the right to sue survives in favour of the legal representatives of deceased defendant. In the present case, the cause of action also survives for legal representatives of deceased defendant. Therefore, I am of the view that the applications filed by the applicant are hereby and made out sufficient grounds to allow the applications. Hence, I proceed to pass the following

ORDER

The IA No.II to IV filed by the applicant are hereby allowed.

Abatement order against the defendant is hereby set aside. The L.Rs. of deceased defendant i.e., D1(a) to (c) are permitted to come on record.

The applicant is hereby by directed to carry out the necessary amendment in the original plaint and to furnish amended plaint.

For compliance by

I ACJ., & JMFC., Nanjangud