

OS.No.183/2014

COMMON ORDERS ON I.A.No.12 TO 14

The G.P.A Holder of plaintiff has filed **IA.No.12** under Order 22 Rule 4 R/W Section 151 of C.P.C seeking to bring on record the LRs of deceased defendant No.2 in the present case. **IA.No.13** under Order 22 Rule 9 R/W Section 151 of C.P.C to set-aside the abatement order if any as against the deceased defendant No.2 and **IA.No.14** under Section 5 of Limitation Act to condone the delay of 70 days in preferring the I.A.No.12 & 13.

2. In the similar affidavits accompanying the said applications sworn in by the G.P.A Holder of plaintiff it is submitted that, the plaintiffs have filed a suit against the defendants for the relief of declaration and consequential relief of permanent injunction in respect of the suit schedule property, wherein during the pendency of the above suit the defendant No.2 was died on 05.08.2023. The opponents are wife and children of deceased defendant No.2. Since the right

to sue survives as against the LRs of deceased defendant No.2 it is necessary to bring them on records by setting aside the abatement order if any and by condoning the delay of 70 days in preferring the said applications. Hence, prayed to allow the applications.

3. In spite of due service of notice to LRs of defendant No.2(a) to 2(c), they failed to appear before the court. As such, they were placed absent.

4. Admittedly, the plaintiffs have filed the present suit against the defendants for the relief of declaration and consequential relief of permanent injunction in respect of the suit schedule property. Since the defendant No.2 was died during the pendency of the above suit on 05.08.2023 and as the cause of action survives as against the LRs of deceased defendant No.2 it is necessary to bring them on record as the rights of the present parties involved and they are the wife and children have succeeded to the estate of deceased defendant No.2.

Moreover, the relationship between them is not disputed. The presence of LRs of deceased defendant No.2 is necessary for the proper and effectual adjudication of dispute in the present case. In view of the same, I proceed to pass the following ;

ORDER

The **I.A.No.12** under Order 22 Rule 4 R/W Section 151 of C.P.C, **IA.No.13** under Order 22 Rule 9 R/W Section 151 of C.P.C and **IA.No.14** under Section 5 of Limitation Act filed by the G.P.A. Holder of the plaintiff are hereby allowed.

**Civil Judge & JMFC.,
T. Narasipura.**

For amendment and amended
plaint by : 07.03.2024.

**Civil Judge & JMFC.,
T. Narasipura.**