

OS.No.79/2017

COMMON ORDERS ON I.A.NO.7 TO 9

The plaintiff has filed **IA.No.7** under Order 22 Rule 4 of C.P.C seeking to bring on record the LRs of deceased defendant No.1 in the present case. **IA.No.8** 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.1 and **IA.No.9** under Section 5 of Limitation Act to condone the delay of 19 days any in preferring the I.A.No.7 & 8.

2. In the similar affidavits accompanying the said applications sworn in by the plaintiff it is submitted that, the plaintiff has 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.1 was died on 12.02.2023. The opponents are the wife, son and daughter and the survivors who are represents the estate and person of defendant No.1. Since the

right to sue survives as against the LRs of deceased defendant No.1 it is necessary to bring them on records by setting aside the abatement order if any and by condoning the delay of 19 days in preferring the said applications. Hence, prayed to allow the applications.

3. The counsel for the defendant No.1(a) to D1(c) submitted to allow the said applications.

4. Admittedly, the plaintiff has 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.1 was died during the pendency of the above suit on 12.02.2023 and the same was very recently brought to the notice of the plaintiff and as the cause of action survives as against the LRs of deceased defendant No.1 it is necessary to bring them on record as the rights of the present parties involved and they are the wife, son and daughter have succeeded to

the estate of deceased defendant No.1. Moreover, the relationship between them is not disputed. The presence of LRs of deceased defendant No.1 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.7** under Order 22 Rule 4 of C.P.C, **IA.No.8** under Order 22 Rule 9 R/W Section 151 of C.P.C and **IA.No.9** under Section 5 of Limitation Act filed by the plaintiff are hereby allowed.

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

For amendment and amended
plaint by :

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