

COMMON ORDERS ON I.A.NO.2 AND 3

The LRs of deceased petitioner has filed IA.No.2 under Order 22 Rule 9 R/W Section 151 of C.P.C to set-aside the abatement order passed against the deceased petitioner and I.A.No.3 under Section 5 of Limitation Act to condone the delay in preferring the I.A.No.2.

In the similar affidavits accompanying the said applications sworn in by the LRs of petitioner, it is submitted that, during his lifetime the deceased petitioner has filed a suit in O.S.No.7/2018 against the respondents for the relief of Permanent Injunction and also an application under Order 39 Rule 1 and 2 of C.P.C. The said application was allowed by this court and thereafter the respondents were disobeyed the orders of this court. Hence, this court registered the above miscellaneous petition. During the pendency of the said petitioner the petitioner Javaraiah died on 01.05.2022 and the applicants are the legal representatives of the deceased petitioner. As such, it is necessary to come on record to pursue the proceedings. Hence, prayed to set-aside the abatement order, as well as

condone the delay if any in preferring the applications. Hence, prayed to allow the applications.

On the other hand, the counsel for respondent No.1 submitted no objection to allow the IA.No.2 and 3.

I have perused the records of the case on hand carefully and meticulously.

The perusal of the records reveals that, the petitioner has filed this petition against the respondents seeking to pass an order for initiating the contempt of court proceedings against the defendants/respondents in O.S.No.7/2018, wherein during the pendency of the above proceedings the petitioner died on 01.05.2022 leaving behind the applicants herein as his LRs. Since the cause of action survives in favour of the LRs of deceased petitioner, it is necessary to bring them on record to continue the above proceedings. Moreover, the counsel for respondent No.1 has submitted no objection to allow the present applications and has not denied the relationship of LRs with petitioner. As such, I am of the considered view and opinion to allow the present applications by setting aside the abatement

order if any and by condoning the delay.
Accordingly, I proceed to pass the following;

ORDER

The I.A.No.2 under Order 22
Rule 9 R/W Section 151 of C.P.C
and I.A.No.3 under Section 5 of
Limitation Act filed by the LRs of
petitioner are hereby allowed.

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

For amendment and to file amended
petition by : 01.09.2023.

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