

COMMON ORDERS ON I.A.NO.5 TO 7

The plaintiff has filed **IA.No.5** under Order 22 Rule 2 and 4 R/W Section 151 of C.P.C seeking to bring on record the LRs of deceased defendant No.1 in the present case. **IA.No.6** 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.7** under Section 5 of Limitation Act to condone the delay if any in preferring the I.A.No.5 & 6.

2. In the similar affidavits accompanying the said applications sworn in by the plaintiff it is submitted that, the plaintiff had filed a suit against the defendants for the relief of specific performance of contract wherein during the pendency of the above suit the defendant No.1 was reported to have died on 20.05.2021 leaving behind his LRs to succeed his estate. Since the plaintiff was not aware of the death of defendant No.1 and the same was known to him when

the defendants have filed memo it is necessary to bring the LRs of defendant No.1 on record by setting aside the abatement order if any and by condoning the delay if any in preferring the said applications. Hence, prayed to allow the applications.

3. Despite due service of notice to defendant No.1(a) he failed to appear before the court and though the defendant No.1(b) and 1(c) represented through their counsel, they have failed to file objection contesting the said application.

4. The perusal of the record reveals that the plaintiff has filed the present case against the defendants for the relief of specific performance of contract, during the pendency of the above suit the defendant No.1 died, since the cause of action survives as against the LRs of deceased defendant No.1 whose rights are also involved in the suit schedule property it is necessary to bring them on record. The presence of the said parties

are necessary for proper and effective adjudication of the dispute. As such, this court is of the view to allow the present applications. In view of the same, I proceed to pass the following ;

ORDER

The **I.A.No.5** under Order 22 Rule 2 & 4 R/W Section 151 of C.P.C, **IA.No.6** under Order 22 Rule 9 R/W Section 151 of C.P.C and **IA.No.7** under Section 5 of Limitation Act filed by the plaintiff are hereby allowed.

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

ORDERS ON I.A.NO.8

The plaintiff has filed **IA.No.8** under Order 22 Rule 2 and 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.

2. In the affidavit accompanying the said application sworn in by the plaintiff it is submitted that, the plaintiff

had filed a suit against the defendants for the relief of specific performance of contract wherein during the pendency of the above suit the defendant No.2 was reported to have died on 27.06.2022 leaving behind his LRs to succeed his estate. Since the plaintiff is illiterate village person and the same was very recently known to him and he consented his counsel to file appropriate application. If the said application is allowed no prejudice would be caused to the defendants. Hence, prayed to allow the application.

3. Pursuant to the notice issued to the LRs of defendant No.2 on IA.No.8 the LRs of said deceased defendant No.2 represented through their counsel and submitted no objection to allow the said application.

4. Since the relationship of LRs of deceased Defendant No.2 with that of defendant No.2 is not denied and the cause of action survives as against the LRs of deceased defendant No.2 it is

necessary to bring them on record. The presence of the said parties are necessary for proper and effective adjudication of the dispute. As such, this court is of the view to allow the present application. In view of the same, I proceed to pass the following ;

ORDER

The **I.A.No.8** under Order 22 Rule 2 & 4 R/W Section 151 of C.P.C, filed by the plaintiff is hereby allowed.

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

For amendment and amended
petition by : 30.06.2023.

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