

COMMON ORDERS ON I.A No. VIII, X to XII

These I.A.'s have been filed by the plaintiff counsel U/o 22 rule 4 of CPC to bring the Lrs of deceased defendant No. 2(a) to (d) and U/o 22 rule 3 CPC to bring the legal representatives of deceased plaintiff no. 1(a) and U/o 22 rule 9 CPC set aside the abatement order and to condone delay U/ sec 5 of limitation Act.

2. In the affidavit of IA No. VIII it is stated that, the deceased defendant No. 2 by name Bheemasheyya Konder was died recently leaving behind his wife and children defendant No. 2(a) to (d) as his legal heirs. Further in the memorandum fact of IA No. X to XII the plaintiff No. 1 by name Late Rangayya died on 01-02-2020. That the deceased plaintiff no.1 has left 1 daughter by name Mademma survived they are necessary parties to be brought on record. There is delay of 3 years 9 month in filing the IA and to bring L.Rs of deceased plaintiff no.1. But the plaintiff counsel was not aware of the fact of death. Hence prays to allow the IA's

3. The applicant orally objected to the IA is not maintainable either in law or facts. That the applicants have not properly explain the reasons for the delay since the court was not closed. Hence prays to reject the IA.

4. Heard both side counsel.

5. The following point arise for my consideration they are as follow;

1. Whether all the I.A's deserved to be allowed?
2. What order ?

6. My answer to the above points are;

Point No.1 : Affirmative.

Point No.2 : As per order.

REASONS

7. **Point No 1 :-** This suit is filed by plaintiff for the relief of recovery of possession. That the deceased plaintiff no. 1 by name Late Rangayya died on 01-02-2020 copy of death certificate is not filed. The plaintiff no. 1 survived by his wife is necessary to be brought on record. Though there is delay of more than 3 years 9 month but due to covid-19 restrictions the plaintiff no.1 LR's were not brought on record in time. There is delay. The said delay has been satisfactorily explain in the affidavit. It will not cause prejudice to the plaintiff. The right to sue survives to the LR's of the plaintiff no.1. The deceased defendant No. 2 died leaving his wife and three daughters has defendant No. 2(a) to (d) has his Lrs. If the IA's are allowed no harm injury would cause to the other side. Accordingly I answer to the Point No.1 is in the Affirmative.

8. **Point No.2:-** For the above said reasons the following:

ORDER

The I.A. No. VIII, X to XII filed by the plaintiff counsel are hereby allowed. Abatement order against deceased plaintiff no. 1 is set aside. The L.Rs. Of deceased plaintiff no.2(a) is permitted to come on record. The Lrs of deceased defendant No. 2(a) to (d) are permitted to come under record. Sri A.T.B. Advocate filed vakalath for Defendant No. 2(a) to (d).

Call on for amendment of cause title and filed amended plaint.

Call on: 06-11-2024.

Sd/-
Civil Judge and JMFC
Devadurga

