

**COMMON ORDERS ON I.As No.XXVII to
XXIX**

The applicant filed an application U/order 22 Rule 4 of CPC seeking to bring the legal representatives of deceased defendant No.10 on records to prosecute the suit. The applicant has filed another application under Order 22 Rule 9 of CPC for set-aside the abatement order against the deceased defendant No.10. Another IA filed u/s 5 of Limitation Act seeking to condone the delay and allow the application.

2. No reply has been on behalf of LR's of deceased defendant No.10.

3. Heard arguments. Perused the pleadings, affidavit and materials on record.

4. The point for consideration is whether the relief prayed for in the above applications can be granted?

5. The above point is answered in the **affirmative** for the following:

REASONS

6. The suit is filed for the relief of partition and separate possession.

7. During the course of trial, the counsel for plaintiff filed a memo, defendant No.10 was died on 17.04.2024 and Lrs of the defendant No.10 are very essential to the case, since defendant No.10 was died, his legal representatives are bring them on record, if not so, there is no possible to decide the real controversy between the

parties. There is no prejudice will be caused to the plaintiff, if the application is allowed.

8. On the death of the defendant No.10 the cause of action would survive on their legal representatives. Hence, it is necessary to condone the delay and to set-aside the abatement who claimed right are on record, for effectually, fully and finally decide the dispute involved in the suit. The opponents can be compensated for the delay in filing these applications by imposing costs. No irreparable injury could be caused to the opponents, if the applications are allowed.

9. Hence, the point for consideration is answered in the affirmative. Hence, the following:-

ORDER

I.A.No.XXVII filed under Order 22 Rule 4 of CPC is hereby allowed.

I.A.No.XXVIII filed under Order 22 Rule 9 of CPC is hereby allowed. The abatement is set-aside.

I.A.No.XXIX filed under section 5 of Limitation Act r/w 151 of CPC, is hereby allowed.

The proposed LRs of defendant No.10 i.e., defendant No.10(a), (b) and (c) are brought on record as legal representatives of deceased defendant No.10.

The plaintiff shall amend the plaint as indicated in the applications.

For amendment and to furnish amended plaint by 31.07.2025.

Sd/-

Addl. Civil Judge and JMFC.,
Channapatna.