

COMMON ORDERS ON I.A. NOS.6 TO 8

The learned counsel for petitioner has filed I.A.No.6 U/o 22 Rule 4 R/w section 151 of CPC, I.A.No.7 under Order 22 Rule 9 R/w Sec.151 of CPC and I.A No.8 Under section 5 of Limitation Act R/w 151 of CPC, with a prayer to bring the L.Rs of the deceased respondent No.1 on record by condoning the delay.

2. Despite, service of notice the LR's of deceased respondent No.1 i.e., respondent No.1(a) to 1(d) have not appeared before the court. As such the LR's of deceased respondent No.1 i.e., respondent No.1(a) to 1(d) are placed as absent.

3. The present applications are supported with the affidavits of LR of the petitioner, wherein he deposed that, respondent No.1 was died on 04-12-2013 during the pendency of this suit, hence it is just and necessary to bring the LR's of deceased respondent No.1 on record.

4. I have gone through the pleadings and the prayer sought under this suit by the petitioner. Since the petitioners have filed this petition on the basis of preliminary decreed passed in

O.S.No.442/1989 as such an opportunity should be given to the petitioners to bring the LR's of deceased respondent No.1 on record for better adjudication of the subject matter and in order to avoid multiplicity proceedings. Though there is delay of 6 years in reporting the death of the respondent No.1 but the same can be condoned by imposing some cost. By considering the nature of the petition, facts and circumstances of the case, it is not proper to deny the justice to the parties to the petition. More over it is trite that in a suit for partition every members of a joint family shall be brought on record for effective adjudication. Hence, this court has not found any reasons to reject these applications. Hence I proceed to pass the following;

ORDER

I.A. Nos.6 to 8 filed by the petitioners are hereby allowed on cost of Rs.100/- each payable to the Advocates Bar Association, Kanakapura.

The delay in filing the I.A No.6 and 7 is condoned and abatement of petition against respondent No.1 is set

aside and L.Rs of deceased respondent No.1 are brought on record as prayed for.

Petitioners are hereby directed to carry out amendment and shall furnish the amended petition.

Call on 02.09.2024.

Sd/-
ACJ and JMFC,
Kanakapura.