



**IN THE COURT OF THE ADDL CIVIL JUDGE AND JMFC
AT GUBBI**

Present : **Smt. Medha P.M. B.A. LL.B.,(Hons.)**
Addl Civil Judge and J.M.F.C.,
Gubbi

Dated this 15th day of November 2025

O.S.No.50/2016

PLAINTIFF	1	Rajanna S/o Late Kallappa, Aged about 75 years, R/o Giddadapalya, Magadi Road, Thavarekere, Bangalore.
	2	Shivanna S/o Late Kallappa, Aged about 72 years, R/o Haranahalli, Arasikere Taluk.
	3	Basavaraju S/o Late Kallappa, Aged about 68 years, R/o Neralekere, Nittur Hobli, Gubbi Taluk. (By Sri. H.L.Somasundar., Advocate)



V/s

DEFENDANTS:		Channabasamma W/o Late Panchaksharaiah Dead by her Lrs
	1.	Renukaiah S/o Late Panchaksharaiah,
	2.	Siddalingakumara S/o Late Panchaksharaiah, 1 & 2 are R/o Neralekere, Nittur Hobli, Gubbi Taluk.
	3.	Jagadeesha S/o Late Panchaksharaiah, R/o 2 nd Cross, Anubhava Nagara, Mudalapalya, Bangalore.
	4.	Jayanna S/o Late Panchaksharaiah, R/o Neralekere, Nittur Hobli, Gubbi Taluk.
	5.	Basavaraju S/o Late Panchaksharaiah, R/o Chikkamangalore Town, Chikkamangalore District.



	6.	Shivanandaiah S/o Late Panchaksharaiah, (Lecturer, R/o Banashankari Road, Amarajyothi Nagara, Tumkur Town.
	7.	Geetha N.R. W/o Chitrashekhar, Aged about 46 years, R/o Behind Nagalingeshwara Temple, Gubbi Town, Gubbi. (By Sri. B.V. Rajeev., Advocate)

Applicant : Sushilamma

**(Sri.A.S. Chandrashekaraiah.,
Advocate for 1(a))**

V/s

Opponent : Shivanna and Another

Provision of Applications	Order XXII Rule 3, Order XXII Rule 9 of the CPC and Section 5 of the Limitation Act
Relief Sought	Order seeking to bring herself on record as the legal



	representative of deceased Plaintiff No.1.
Date of Applications	23.10.2024
Number of the Applications	6 to 8
Date of Objections	21.08.2025
Date of Order	15.11.2025

ORDERS ON I.A. NOS. 6, 7 AND 8 FILED BY THE
APPLICANT UNDER ORDER XXII RULE 3, ORDER XXII
RULE 9 OF THE CPC AND SECTION 5 OF THE LIMITATION
ACT

1. The applicant has filed I.A. Nos. 6, 7 and 8 under Order XXII Rule 3, Order XXII Rule 9 of the CPC and Section 5 of the Limitation Act seeking to bring herself on record as the legal representative of deceased Plaintiff No.1. These applications have been filed at the stage of cross-examination of PW-1.

2. In the supporting affidavit, she states that she is the wife of Plaintiff No.1, who passed away during the pendency of the suit. She asserts that she is the sole legal heir of the deceased, and therefore the right to sue survives to her. She accordingly prays that the delay, if any, be condoned, any



abatement be set aside, and that she be permitted to come on record as the legal representative of the deceased Plaintiff No.1 in the interest of justice.

3. The defendants have filed objections contending that the applicant has not produced any material to establish her relationship with the deceased Plaintiff No.1. It is further stated that the applicant has not even filed the death certificate of Plaintiff No.1, and that the present applications have been filed only to protract the proceedings. The defendants therefore prays that the applications be dismissed with costs.

4. Perused the application, objection and material placed on record.

5. Heard both the counsel on the application.

6. The following points arise for this court's consideration:

1. Whether the applicant has established that she is the legal representative of the



deceased plaintiff No.1 on whom the right to sue survives?

2. What order?

7. This court answers the above points as:

1. Point No.1 : In the Negative.

2. Point No.2 : As per final order for the following :

:: REASONS ::

8. POINT 1: On perusal of the order sheet and records, it appears that Plaintiff No.1 and his brothers instituted the present suit for partition and separate possession. During the pendency of the proceedings, Plaintiff No.1 passed away. His counsel reported the death before this Court on 02-02-2017 and filed a memo stating that Plaintiff No.1 had no legal heirs other than his brothers, who are already on record as Plaintiff Nos.2 and 3. This Court accepted the memo and the plaint was accordingly amended.

9. In applications of this nature, the person seeking to come on record as the legal representative must place



sufficient material before the Court to show both the fact of death and her relationship with the deceased. The burden rests squarely on the applicant, because substitution changes the very parties to the suit and cannot be ordered on assumptions or incomplete information.

10. In the present case, the applicant has filed only her Aadhaar card, in which her husband's name appears as "Rajanna." This document, by itself, does not establish that the "Rajanna" mentioned therein is the same person as Plaintiff No.1 in this suit. No document linking the deceased Plaintiff No.1 to the applicant has been produced. Such minimal material cannot be treated as proof of legal heirship.

11. Further, the applicant has not produced even the basic document required to prove the factum of death namely, the death certificate of Plaintiff No.1. Without this, the Court cannot verify whether the plaintiff has in fact died, when he died, and whether the application is within time. The applicant has also not mentioned the date of death anywhere in her affidavit, which leaves the Court completely in the dark regarding limitation.



12. This omission becomes more serious in light of the existing record. Earlier, a memo had been filed by the counsel for Plaintiff No.1 stating that he had no legal heirs other than his brothers, who are already on record. This Court had accepted that memo and the plaint was amended accordingly. If the applicant now claims a different position, she must produce strong and convincing material to show that the earlier statement was incorrect. No such explanation or document has been provided.

13. Allowing substitution on the basis of such incomplete and unsupported material would only complicate and delay the proceedings. The defendant is entitled to rely on the record as it stands, and the Court cannot permit a new party to enter the lis without clear proof. The applications, as filed, appear to be premature and without the minimum level of substantiation required in law.

14. For these reasons, the applicant has not proved her relationship with the deceased, has not produced the death certificate, and has not even disclosed the date of death.
Hence, this court answers point No.1 in the Negative.



15. POINT 2: As per the following:

ORDER

I.A. Nos. 6, 7 and 8 under Order XXII Rule 3, Order XXII Rule 9 of the CPC and Section 5 of the Limitation Act filed by the applicant is rejected with cost of Rs. 150/- each.

(Dictated to the Stenographer transcribed, typed and print out taken by her, corrected by me and then order pronounced in the open court on this 15th day of November 2025.)

Sd/-

**Addl. Civil Judge and JMFC.,
Gubbi.**