



**IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC AT
GUBBI**

Dated this the 19th day of February 2026

PRESENT:

**KIRAN S.P., B.B.M., LL.B.,
Prl. Civil Judge & JMFC, Gubbi**

OS No.325/2020

Plaintiffs :- Govindaraju B.N.

-V/s-

Defendants :- Kodappa & others

Cause Title On IA No.3 to 5

**Applicant :- Prema B.N.
W/o Ramamurthy
Aged about 47 years,
R/at Near On Shanthi Temple,
Horamavu, Bangalore – 45.**

(By Sri. KGN Advocate)

-V/s-

Respondent :- Kodappa & others

(By Sri. CRB Advocate)

COMMON ORDER ON I.A. No.3 to 5:

The applicant has filed IA No.3 U/O 22 rule 3 of CPC, IA No.4 U/O 22 Rule 9 of CPC, and IA No.5 U/Sec. 5 of Limitation Act and praying for permit her to come on



record as legal representative of plaintiff by setting aside the abatement order by condone the delay in filing applications.

2. In the accompanying affidavits, it is stated that, the applicant is the brother of the deceased plaintiff. The plaintiff had filed the above suit for partition and separate possession. The plaintiff expired on 02-12-2024 leaving behind the applicant as his class II heir. The right to sue survives. It is just and necessary to order to allow the accompanying application to enable the applicant to further conduct the above suit to meet ends of justice and also to prevent the multiplicity of proceedings. Due to some domestic problem he could not filed the above said application earlier. Recently he has contacted his counsel to know about the further proceedings of the above said suit filed by his brother. As such some delay has been caused in filing the above said application under Order 22 Rule 3 of C.P.C to permit the applicant to conduct the above suit. It is just and necessary to order to allow the accompanying application to set aside the abetment caused against the plaintiff in order to further conduct the above suit in the interest of Justice and to allow the application to condone the delay in filing the above said application. No prejudice or hardship would be caused to the other side if the accompanying application is allowed or



otherwise the applicant would be put to great loss and trouble which could not be compensated in any manner. Therefore she prays to allow the applications.

3. This application is resisted by the defendant No. 1 by filing objections. It is stated in the objections that, the applications filed by the applicant is not maintainable either in law or on facts, hence the applications are liable to be dismissed. The applicant has sworn to a false affidavit with untenable facts and the averments stated in the affidavit annexed to the applications are all baseless and false and hence the applications filed by the applicant is liable to be dismissed. The plaintiff has filed the above suit for partition and such other reliefs with respect to suit schedule property, the plaintiff was died on 02-12-2024, the plaintiff is not having any legal heirs and hence the suit has to be abated, the applicant is not the legal heir of plaintiff and she has not produced any piece of documents to show that, she is the class-II legal heir of plaintiff and hence the applications are not maintainable and hence the said applications have to be rejected and accordingly the suit has to be abated. The plaintiff was died on 02-12-2024 and the applicant has filed an application on 15-10-2025 by that time the suit was abated and the plaintiff is not having class-I legal heirs



and hence the applications are not maintainable and liable to be rejected. The defendant No.1 has filed his written statement to the plaint and the averments of the said written statement may kindly be considered as part and parcel of this objections. On these grounds they pray to dismiss the applications.

4. Heard Arguments, perused materials placed on record.

5. The points arise for the determination of this court as under.

Point No.1: Whether the applicant has made out sufficient grounds to allow IA No.3 to 5?

Point No.2: What order?

6. My findings on the above points are as follows:-

Point No. 1 : In the Affirmative

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

REASONS

7.POINT NO.1: I have gone through the plaint averments, the plaintiff has filed this suit against the



defendants for seeking the relief of partition and separate possession over the suit schedule property. On perusal of the affidavit averments, it reveals that plaintiff died on 02.12.2024. Since it is a suit for partition and separate possession, the right to sue is survive on the LR's of the deceased in the present suit. But LR's of plaintiff was not come on record in time. IA No. 3 is filed after expiry of Limitation Period. Instead of throwing out the application on technical grounds, it is just and necessary to give an opportunity to the Lrs of plaintiff to come on record. If the applications are allowed by setting aside the abatement order by condone the delay, no hardship or injury would be caused to the other side, per-contra if applications are not allowed the Lrs of plaintiff will be deprived an opportunity to get the case adjudicated on merits. Hence this court is of the opinion that Lrs of plaintiff has made out sufficient grounds to allow applications by setting aside abatement order by condone the delay in filing applications. Accordingly, this court answers Point No.1 in the **Affirmative**.

8. **POINT No.2**: For the foregoing reasons, this court proceeds to pass the following:



ORDER

IA No.3 filed by the applicant U/O 22 Rule 3 of CPC, IA No.4 filed U/O 22 Rule 9 of CPC and IA No.5 filed U/S 5 of Limitation Act are hereby allowed on cost of Rs.200/-.

It is directed to the applicant to come on record as legal representative of plaintiff in this suit by carry out necessary amendment to the cause title of the plaint.

(Dictated to the stenographer, transcribed by her, corrected and then pronounced in the open Court on this the 19th day of **February 2026**)

Sd/-
(KIRAN S.P.)
Prl. Civil Judge & JMFC,
Gubbi.