

ORDERS ON IA NO. V

This is an application filed by the learned counsel for the petitioner under the provisions of Order 22 Rule 4 r/w Sec. 151 of CPC to bring the LRs of deceased respondent No.2 as respondent No.2(a) to 2(d).

On service of notice on IA No.V, the respondent No.2(a) to 2(d) have appeared before this court through their learned counsel.

Learned counsel for respondents No. 2(a) to 2(d) has orally objected.

Heard the arguments of Learned counsel for both the side and perused the IA, affidavit and entire records.

Now the point that would arise for my consideration is as under.

Whether the right to sue survives in favour of the respondent No.2(a) to 2(d) and whether the application filed under the provisions of Order 22 Rule 4 r/w Sec. 151 of CPC is deserves to be allowed?

On considering the materials on records, now my answer to the above point for consideration is in the affirmative for the following

REASONS

On perusal of records, it would indicate that the petitioner has filed petition under the provisions of Order

21 Rule 97 of CPC not to evict the applicant from the house bearing CMC No.1230 without due process of law.

The respondents have appeared before the court and filed objections denying the material averments made in the petition.

It is at this stage of proceedings and when the case is set down for further chief of PW1, the respondent No.2 reported to be died on 28-11-2019. In this regard, death certificate of deceased respondent No.2 is produced.

It is pertinent to note here that the respondent No.2(a) to 2(d) are non other than the Sons and daughters of deceased respondent No.2. The right to sue survive in favour of the respondent No.2(a) to 2(d). In order to adjudicate the real controversy of parties, the presents of respondent No.2(a) to 2(d) also necessary before the court. Hence, it is just and necessary to permit the petitioners to bring LRs of deceased respondent No.2 as respondent No.2(a) to 2(d). Hence, for the reasons discussed above, I answer point for consideration in the affirmative and proceed to pass the following :

ORDER

IA No.V filed by the petitioner under the provisions of Order 22 Rule 4 r/w Sec. 151 of CPC is hereby allowed. No cost.

The petitioner is permitted to bring the LRs of deceased respondent No.2 as respondent No.2(a) to 2(d).

The learned counsel for the petitioner is directed to carry out necessary amendments/correction in the cause title and to furnish the amended petition on or before next date of hearing without fail by 13-11-2020.

Sd/-
**Prl. Sr. Civil Judge,
Karwar.**