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ORDERS ON I.A.NO.VII AND VIII

Advocate Sri. B.S. has filed vakalat for legal heirs of deceased plaintiff i.e. plaintiff No.1(a) and 1(b) along with I.A.No.VII under Order 22 Rule 3 R/W.Sec.151 of C.P.C. and I.A.No.VIII is filed by the counsel for the plaintiff under Order 22 Rule 2 R/W.Sec.151 of C.P.C. and Section 5 of the Limitation Act.

2. The same is brought to the notice of the counsel for the defendants who has submitted no objections to the said applications.

3. Heard the counsel for the LRs. of the original plaintiff and perused the applications.

4. It is submitted that the original plaintiff Chandrakant Shankar Raikar has died during the pendency of the Regular Appeal and the legal representatives of the original plaintiff were brought on record in R.A.Nos.16/2018 and 17/2018 and however, due to oversight they were not brought on record in the original suit. It is further submitted that the same is not deliberate, but, only due to oversight and hence, in view of the remand of the case, prayed to implead the legal heirs of original plaintiff as plaintiffs No.1(a) and 1(b).

5. In view of the death of the original plaintiff, the right to sue survives to the legal heirs of

the original plaintiff who are wife and son of deceased Sri. Manjunath Chandrakant Raikar. In addition, sufficient cause is made out for delay in bringing the legal heirs on record. Hence, in order to sub-serve the ends of justice, it is just and proper to allow the applications. Hence, I proceed to pass the following:

ORDER

I.A.No.VII filed by the counsel for the LRs. of the plaintiff under Order 22 Rule 3 R/W. Section 151 of C.P.C. and I.A.No.VIII filed by the counsel for the LRs. of the plaintiff under Order 22 Rule 2 R/W. Section 151 of C.P.C. and Section 5 of Limitation Act are hereby allowed.

The abatement if any is set aside.

The delay in bringing the legal heirs on record is hereby condoned.

The counsel for the proposed plaintiffs is permitted to bring the legal heirs of original plaintiff on record as plaintiffs No.1(a) and 1(b) and to amend the cause title accordingly,

For amendment of cause title.

Call on 20.04.2023.

Prl. Senior Civil Judge & CJM.,
Karwar.