

KAUK030005892018



**ORDERS ON APPLICATION FILED UNDER ORDER
XXII RULE 1 AND 2 R/W SECTION 151 OF C.P.C.**

The plaintiff has filed these application U/O.22 Rule 1 and 2 R/W section 151 of C.P.C. seeking permission to bring on record the L.R.s of defendant No.5 on record.

In the accompanying affidavits annexed to the application, it is stated that defendant No.5 demised on 16.04.2021 leaving behind his L.R.s who are shown in the said application as proposed Defendant No.5(a) to 5(d) and they are all the necessary parties to the suit. The plaintiff intends to bring the following L.R.s of defendant No.5 on record.

- (a) **Shri. Machendra S/o. Prabhakar Mahale,**
Aged: 50 years, Occ: Contractor,
- (b) **Shri. Jalendra S/o. Prabhakar Mahale,**
Aged: 45 years, Occ: Private Work,
- (c) **Shri. Jayashankar S/o. Prabhakar Mahale,**
Aged: 41 years, Occ: Private Work,
- (d) **Smt. Maya D/o. Prabhakar Mahale,**
Aged: 43 years, Occ: Household,

All are residing at Divakar Garage Road,
Gunagiwada, Habbuwada, Karwar.
(L.R.s of deceased defendant No.5)

During pendency of the suit the defendant No.5 has expired on 16.04.2021 leaving behind the proposed defendant No.5(a) to 5(d) as his Class-I legal heirs and learned counsel for plaintiff well-within the period of limitation as contemplated by Article 120 of the Limitation Act filed the instant application seeking to bring the aforesaid L.R.s of deceased Defendant No.5 on record.

Upon service of notice on said I.A., Sri. GNJ, advocate filed vakalath for Defendant No.5(a) to 5(c). As far as Defendant No.5(d) is concerned, she did not appear before the Court and file any objections to I.A. despite service of notice. Hence her objections has taken as Nil. As per law it is very much necessary to bring on records the L.Rs. of deceased parties. The right to sue survive upon the defendant No. 5(a) to 5(d). It is just and necessary to bring the L.Rs. of Defendant No.5 as they are proper and necessary persons in the subject matter.

Heard the learned counsels for the plaintiff and defendants counsel. Perused the materials available on record.

This suit is filed by the plaintiffs against the defendants for the relief of Partition and Possession. Thus, the legal heirs of defendant No.5 are the necessary parties to this suit to decide the matter effectively and the right to sue survives against the legal heirs of defendant No.5 also. Therefore, in the interest of justice the application deserve to be allowed. Hence, I proceed to pass the following:

ORDER

The I.A. filed by plaintiff U/O.22 Rule 1 and 2 R/W section 151 of C.P.C. is hereby allowed.

The legal heirs of defendant No.5 are impleaded to this suit as defendant No. 5(a) and 5(d).

Addl. JMFC, Karwar

O.S. 84/2018

For amendment and to furnish
amended plaint call on 07.02.2024.

Addl. JMFC, Karwar.