

ORDER ON I.A.NO.XII

The I.A.No. XII is Under Order XXII Rule 4 r/w section 151 of CPC filed by the plaintiff/applicant, seeking permission to bring the LR's of defendant No.1 on record.

In the affidavit, it is stated that the defendant No.1 of this case was died on 16.6.2023 and the proposed defendant No.1(a) to (c) are the legal heirs of deceased defendant No.1. Hence, the proposed defendants are necessary parties to the suit. Hence, prays to allow the I.A.

On the other hand, the defendant No.2/opponent has filed objection, denying the content of the application and contended that the I.A.is not maintainable as under law or on facts. In view of WILL executed by defendant No.1 in favour of defendant No.2 and in favour of brother of defendant No.2. Further, it is contended that by virtue of registered WILL Deed executed by deceased defendant No.1, the defendant No.2 and

his brother are only legal heirs of deceased defendant No.1. Hence, the proposed defendants have no right, title or interest over the suit schedule property. Further, it is contended that the application of the applicant is not in accordance with provisions of Civil Rules of Practice and it is contended that the proposed defendants are not necessary parties and the present application is filed by the plaintiff only in order to confuse the question involved in the suit. Hence, prays to dismiss the I.A.No.XII with costs.

Heard both sides and perused material records.

Admittedly, the present suit is partition and separate possession. It is admitted fact that the deceased defendant No.1 was died during the pendency of the suit. In the application,. It is stated that the deceased defendant No.1 Smt. Bhagirathi was died without issue and the present proposed defendants are only the legal heirs of deceased defendant No.1. On the other hand, the defendant No.2 has contended that himself and his brother are

legal heirs by virtue of registered WILL executed by deceased defendant No.1. Admittedly, the present suit for partition and separate possession. So, for complete adjudication of the case, I am of the considered view that I.A.No.XII is to be allowed. Hence, as reasons stated above, I proceed to pass the following:

Order

The I.A.No. XII Under Order XXII Rule 4 r/w section 151 of CPC is hereby allowed.

The plaintiff is permitted to implead the proposed defendant No.1(a) to (c) as defendant No.1(a) to (c).

For amendment of plaint.

Senior Civil Judge, Bhatkal