

KAUK510001662014



**ORDERS ON I.A NO.14**

The instant application is filed by the respondents No.3(c), 3(e) and 3(f) under Order 9 Rule 7 R/w Section 151 of C.P.C to set aside the order placing the said respondents as exparte and permit them to contest the matter.

The respondent No.3(e) has filed an affidavit in support of the instant application wherein, she has stated regarding filing of O.S No.97/1982, preferring R.A No.66/2020 and pending of RSA No.100105/2014 and it is also stated in the affidavit that, during the pendency of this petition, some of the respondents have expired by leaving behind them their LRs and some of the LRs are already on record and contesting the petition but, the respondents No.3(c), 3(e) and 3(f) have failed to appear before the Court on the ground of misconception as the petitioners had approached the elders for settling the dispute. Non-apperance of the aforesaid respondents is neither intentional nor deliberate one but, the same is caused due to lack of miscommunication and prays to allow the application.

On the other hand, the petitioners have filed objections to the instant application wherein, they have contended that, the instant application is filed after long duration of 09 years and even the applicants have sought more than one relief in single application and as such, the application is liable to be dismissed. It is further contended that, the respondents are contesting the case since from the filing of original suit and they are well within the knowledge that, notices have been issued to them in this petition and inspite of the same, they have deliberately failed to appear before the Court. It is further contended that, the present applicants have deliberately refused to receive the notice and now filed time barred application which is liable to be dismissed.

Heard on both side. Perused the entire materials.

Matter of the year 2014. The instant application is filed to set aside order of placing exparte of respondents No.3(c), 3(e) and 3(f). After lapse of years together, the instant application has been filed by the applicants to set aside placing them exparte. Original suit was of the year 1982 wherein, petitioners have allotted  $\frac{1}{4}$ <sup>th</sup> share in the suit properties and the same was confirmed in R.A No.66/2006 and thereafter to get the fruits of the

decree, petitioners have filed this petition in the year 2014. Now the aforesaid applicants have filed the instant application to set aside earlier order in respect of placing them as exparte.

On going through the entire materials, Court opines that, one opportunity to be given to applicants to contest petition. At same time, petitioners to be compensated for the delay caused by applicants. Having regard to all these aspects, Court proceeds to pass the following:

**ORDER**

I.A.No.14 filed by the respondents No.3(c), 3(e) and 3(f) under Order 9 Rule 7 R/w Section 151 of C.P.C is hereby allowed on cost of Rs.1,500/-.

Consequently, placing of respondents No.3(c), 3(e) and 3(f) exparte is set aside and they are permitted to contest the petition.

**Civil Judge & JMFC.,  
Haliyal.**