

KAUK510003992024



Presented on : 14-03-2024

Registered on : 14-03-2024

Decided on : 14-08-2025

**IN THE COURT OF CIVIL JUDGE & JMFC, HALIYAL**  
**AT: HALIYAL, UTTARA KANNADA**

**Dated this 14<sup>th</sup> day of August, 2025**

**PRESENT**

**Smt. Geeta.** B.A.LL.B (Hon's) LL.M.,  
Civil Judge and JMFC, Haliyal

**FDP NO.05/2024**

**BETWEEN:**

1. Sri. Huvani S/o Ganapati Jadhav,  
Age : 75 years, Occ : Agriculture,
2. Sri. Fakeera S/o Ganapati Jadhav,  
Age: 70 years, Occ: Agriculture,

Both are R/o. Yadoga Village, Tq: Haliyal (U.K).

**.....Petitioners**

**(By Sri. S.L.S., Advocate)**

**AND:**

1. Sri. Narayan S/o Nagendra Jadhav,  
Age: 68 years, Occ: Agriculture,  
R/o. Yadoga Village, Tq: Haliyal (U.K)  
(Dead)

2. Sri. Mahadev S/o Nagendra Jadhav,  
Age: 66 years, Occ: Agriculture,  
R/o. Yadoga Village, Tq: Haliyal (U.K) and others.

....Respondents

**(R-1 Dead)**

**(R-2, 3(a) to (d) By Sri. M.B.P, Advocate)**

**I.A.No.I**

**Applicant/Petrs : Sri. Huvani S/o Ganapati Jadhav  
and another.**

**-Vs.-**

**Opponents/Respts: Sri. Narayan S/o Nagendra  
Jadhav (Dead)  
Sri. Mahadev S/o Nagendra  
Jadhav and Others.**

**I.A.No.II**

**Applicant/Petrs : Sri. Huvani S/o Ganapati Jadhav  
and another.**

**-Vs.-**

**Opponents/Respts: Sri. Narayan S/o Nagendra  
Jadhav (Dead)  
Sri. Mahadev S/o Nagendra  
Jadhav and Others.**

**I.A.No.III**

**Applicant/Petrs : Sri. Huvani S/o Ganapati Jadhav  
and another.**

**-Vs.-**

**Opponents/Respts: Sri. Narayan S/o Nagendra  
Jadhav (Dead)  
Sri. Mahadev S/o Nagendra  
Jadhav and Others.**

**COMMON ORDER ON I.A NO.I TO III**

The petitioners filed I.A No.I under Section 5 of the Limitation Act R/w Section 151 of C.P.C, praying to condone the delay in filing the applications to bring the legal representatives of respondent no.1 on record, filed I.A No.II Order XXII Rule 9 R/w Section 151 of C.P.C., to set aside abetment and filed I.A No.III under Order XXII Rule 2 R/w of C.P.C., to bring the legal heirs of respondent no.1 on record.

2. In the affidavit, petitioner no.1 stated that, they have filed this petition against the respondents, during pendency of this petition i.e., on 01.01.2024, the respondent no.1 died leaving behind his legal heirs. They have no information about the same, he could not get the names of LRs of respondent no.1 in time, as such, they have filed these applications now. Therefore, it is necessary to bring LRs of respondent no.1 on record. With these contentions, the petitioner no.1 prayed to condone the delay and set aside the abetment by allowing these applications.

3. After issuance of notice to legal heirs of respondent no.1 appeared, but not filed objections.

4. Heard counsel for petitioners and perused the records.

5. Now the points that would arise for my consideration are as follows;

**1. Whether the petitioners have made out grounds to bring legal heirs of**

**respondent no.1 on record by setting aside abetment and by condoning delay?**

**2. What order?**

6. Answers on the above points are as under;

**Point No.1 : In the Affirmative**

**Point No.2 : As per final order,  
for the following;**

**REASONS**

7. **POINT NO.1:-** The petitioners have filed this petition to draw final decree in view of preliminary decree passed in O.S No.25/2009. During the pendency of this petition, the respondent no.1 died as such, the petitioners filed these applications to bring his legal heirs on record. One of the legal heirs of respondent no.1 appeared but, not filed objections to applications.

8. On perusal of records, this petition is filed to allot the shares of parties as per preliminary decree passed in O.S No.25/2009, the said suit was filed for the relief of partition and separate possession. The purpose of this petition is only to demarcate the shares of parties. Now the respondent no.1 died, therefore, to allot his share to his legal heirs, they have to be brought on record. It is true that, there is delay in filing the applications to bring legal heirs of respondent. It is settled law that sufficient cause for condoning the delay should be liberally construed. In the case hand, the relief is for demarcation of

properties as per preliminary decree, for complete adjudication of the matter, the legal heirs of respondent have to be brought on record by setting aside abetment and by condoning delay. Under these circumstances, the petitioners have made out grounds to allow the petition. Hence, **I answer Point No.1 in the Affirmative.**

**9. POINT NO.2 :-** In view of the discussion on Point No.1 and for the reasons stated therein, I proceed to pass the following:

### **ORDER**

**I.A No.I filed by the petitioners under Section 5 of the Limitation Act R/w Section 151 of C.P.C, I.A No.II filed under Order XXII Rule 9 R/w Section 151 of C.P.C., and I.A No.III filed under Order XXII Rule 2 R/w Section 151 of C.P.C., are hereby allowed.**

**The LRs of respondent no.1 are brought on record.**

**For amendment and amended petition.**

(Dictated to the Stenographer, transcribed and typed by her, corrected by me, signed & then pronounced in the Open Court on this the **14<sup>th</sup> day of August, 2025**)

Sd/-  
**(Geeta)**  
**Civil Judge & JMFC.,**  
**Haliyal**