

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 14th 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,

Borth 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.IV

**Applicant/Petr : Sri. Huvani S/o Ganapati Jadhav
(Dead)
Sri. Fakeera S/o Ganaparti Jadhav.**

-Vs.-

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

ORDER ON I.A NO.IV

The petitioner no.2 filed I.A No.IV under Order XXII Rule 2 R/w Section 151 of C.P.C., praying to bring the legal heirs of petitioner no.1 on record.

2. In the affidavit, petitioner no.2 stated that, they have filed this petition against the respondents, during pendency of this petition i.e., on 19.05.2025, the petitioner no.1 died leaving behind his legal heirs. Therefore, it is necessary to bring LRs of petitioner no.1 on record. With these contentions, the petitioner no.2 prayed to condone the delay and set aside the abetment by allowing these application.

3. The respondents submitted no objections to the application.

4. Heard counsel for petitioner and perused the records.

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

1. Whether the petitioner no.2 has made out grounds to bring legal heirs of petitioner 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 petitioner no.1 died as such, the petitioner no.2 filed this application to bring his legal heirs on record.

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 petitioner no.1 died, therefore, to allot his share to his legal heirs, they have to be brought on record. The application is filed within the period of limitation, in such event, there are no impediments to allow the application. Therefore, the legal heirs of petitioner no.1 have to be brought on record. Under these circumstances, petitioner no.2 has made out grounds to allow the application. 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.IV filed by the petitioner no.2 under Order XXII Rule 2 R/w Section 151 of C.P.C., is hereby allowed.

The LRs of petitioner no.1 are brought on record.

For amendment and amended petition.

(Dictated to the Stenographer directly on system, typed by her, corrected by me, signed & then pronounced in the Open Court on this the **14th day of August, 2025**)

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