

KAUK510016032024



COMMON ORDERS ON
I.A.No.II TO I.A.No.IV

The petitioner filed I.A No.II under Order XXII Rule 4 of C.P.C., praying to LRs of respondent no.6, filed I.A No.III under Order XXI Rule 9 R/w Section 151 of C.P.C, praying to set aside the abatement and filed I.A No.IV under Section 5 of the Limitation Act, praying to condone the delay of 132 days in bringing LRs of respondent no.6.

2. In the affidavits, the petitioner stated that, she has filed O.S No.122/2023 for the relief of partition and separate possession and said suit was decreed. Thereafter, she filed this petition and during the pendency of the petition, the respondent no.6 died on 21.03.2024 leaving behind his LRs have to be brought on record. It is further contended that, after the death of respondent no.6, the petitioner was not aware of the fact,

therefore, she filed this application to bring LRs of respondent no.6 at present. It is further contended that, there is delay of 232 days in bringing the legal heirs of respondent no.6, as the petition is for execution of Preliminary decree, therefore, the legal heirs of respondent no.6 have to be brought on record. With these contentions, the petitioner prayed to allow the application.

3. After issuance of notice to legal heirs of respondent no.6, they placed absent.

4. Heard petitioner counsel and perused records.

5. This petition is filed for drawing final decree in view of preliminary decree passed in O.S NO.122/2023 which was filed for the relief of partition and separate possession and during pendency of this petition, respondent no.6 died, therefore, in order to allot the share of respondent no.6, her LRs have to be brought on record. Further, there is delay in bringing

the legal heirs of respondent no.6 but, considering the nature of petition, the LRs of respondent no.6 have to be brought on record for complete adjudication of the matter. Therefore, the petitioner has made out grounds to allow the applications. Hence, I proceed to pass the following;

ORDER

I.A.No.II filed by the petitioner U/O. XXII Rule 4 of C.P.C., I.A No.III filed by the petitioner U/O. XXII Rule 9 R/w Section 151 of C.P.C., and I.A No.IV filed by the petitioner U/Sec.5 of the Limitation Act, are hereby allowed.

The LRs of respondent no.6 are brought on record.

For amendment and amended petition.

No order as to costs.

Sd/-
**Civil Judge and JMFC.,
Haliyal**