

3.8.2021

ORDERS ON I A NO III

The plaintiff has filed I A No III under Order XXII rule 3 R/w S. 151 of CPC seeking to bring the legal representatives of deceased plaintiff no 1 on record. The plaintiff no 2 filed the affidavit in support of the application wherein it is stated that plaintiff no 1 died on 22.02.2020 and the persons named in the I A are the legal representatives of deceased plaintiff no 1. It is stated that right to sue survives in favour of legal representatives and it is necessary to bring them on record. It is necessary to bring the legal representatives on record in

order to proceed with the case. On the said grounds, plaintiff no 2 sought to bring the legal representatives of plaintiff no 1 on record.

The copy of the application is served on the counsel for the defendants and the counsel for the defendants submitted no objection to I A No III.

Heard the counsel for the plaintiffs. Perused the materials placed on record.

The plaintiffs has filed the present suit against the defendants seeking the relief of partition and separate possession. The suit involves adjudication of right and interest of the parties with respect to the suit property. The right to sue exists in favour of legal representatives of deceased plaintiff no 1. The legal representatives of deceased plaintiff no 1 are entitled to succeed to the estate of deceased plaintiff no 1. The right to sue survives in favour of legal representatives of deceased plaintiff no 1. The legal representatives of deceased plaintiff no 1 appear to be necessary parties to the suit since the right to survives in them. Further, the right and interest of the legal representatives of plaintiff, appears to be involved in the suit and they need to be brought on record in order to safeguard their right and interest. The legal representatives of deceased plaintiff no 1 appear to be necessary parties to the suit and they need to be brought on record for proper and just adjudication of the suit. As the suit involves determination and adjudication of right and interest of the parties with respect to the suit property, the legal representatives of plaintiff no 1 are necessary parties to the suit and need to be brought on

record for just adjudication and to meet the ends of justice. Hence, this court deems it appropriate to pass the following:

ORDER

I A No III filed under Order XXII rule 3
R/w S. 151 of CPC is hereby allowed.

The plaintiffs are permitted to bring the
legal representatives of deceased plaintiff no 1
on record and to carry out necessary
amendment to the plaint in that regard.

Sd/-

PRL CIVIL JUDGE, KUMTA