

ORDERS ON I A FILED BY THE
APPLICANTS

The applicants filed I A under Order XXII rule 3 R/w S. 151 of CPC seeking to bring the legal representatives of deceased

petitioner, I A under Order XXII rule 9 R/w S. 151 of CPC to set aside the order of abatement and also another I A under S. 5 Limitation Act seeking to condoned the delay caused in filing necessary applications. The applicant no 1 (a) filed the affidavit in support of the application wherein it is stated that petitioner is dead and the applicants are the legal representatives of deceased petitioner. The applicants have got right to proceed with the petition as there exists right to sue in their favour being the legal representatives of deceased petitioner and sought for bringing them on record as the legal representatives of deceased petitioner. As such, the applicants sought to bring them on record as the legal representatives of deceased petitioner.

The objection of respondents to the application is taken nil.

Heard the counsel for the applicants. Perused the materials on record.

The petitioner filed the present petition seeking for demarcation of share in the schedule property by appointment of court commissioner. The right of petitioner over the petition schedule property has been adjudicated and the applicants, being the legal representatives, are entitled to the estate of deceased petitioner. The applicants stated to be the legal representatives of deceased petitioner. The applicants, being the legal representatives of deceased petitioner, are entitled to succeed to the estate of deceased petitioner. The petition involves demarcation and allotment of share in accordance with the terms of the

preliminary decree and as such, there exists right to sue in their favour. In order to adjudicate and demarcate the share in the schedule property, the applicants need to be brought on record. It may not be possible to demarcate the shares without bringing the applicants on record. It is stated by the applicants that they could not furnish necessary information to the counsel with respect to the aspect of death of petitioner and also unable to file necessary application within the stipulated period since the Government declared lock down in order to curtail the spread of Covid-19 pandemic. The reasons assigned by applicants appear satisfactory. There exists valid ground for condoning the delay caused in filing the application. Thus, the applicants made out grounds for allowing the application. Hence, this court deems it appropriate to pass the following

ORDER

I As filed by the applicants under Order XXII rule 9 of CPC, S. 5 of Limitation Act and Order XXII rule 3 of CPC are hereby allowed.

The applicants are permitted to come on record as the legal representatives of deceased petitioner and is permitted to carry out necessary amendment to that effect.

SD/-

PRL CIVIL JUDGE, KUMTA

