

ORDERS ON I.A.No.V

The appellant has filed application under Order XXII Rule 4 of C.P.C. to implead the opponent as respondent No.12(a) in the cause title of appeal memo. The appellant by name Ramesh Kamath sworn to an affidavit wherein he has stated that he as filed suit for partition and separate possession before the Trial Court bearing No.376/2015. Said suit was dismissed against judgment an decree. So he preferred the present appeal.

During the pendency of the appeal, respondent No.12 by name Ramesh Prabhu died leaving behind opp as his sole legal heir. His wife already predeceased him. Accordingly the court allow the application. The notice was issued to the proposed respondent to who appear before the court through his counsel and has not filed objections.

The appellant has filed suit for partition and separate possession before the Trial court. The said suit was dismissed and appellant challenged the judgment and decree passed by the Trial Court before this court. The appellant produced the copy of death certificate which goes to show that respondent No.12 namely Ramesh Prabhu died on 09.05.2024. According to the appellant, opponent/ proposed respondent is a sole legal heir. In a suit for partition all the legal heir are necessary parties to the suit. In their absence an effective decree cannot be passed. Whatever the rights of deceased Ramesh Prabhu acquired will devolved on his legal heirs. Hence, opponent/ proposed respondent is a necessary party to the appeal. Hence, the application to be allowed. Accordingly I proceed to pass the following:

ORDER

I.A. filed by the appellant under Order XXII Rule 4 of C.P.C. is hereby allowed.

In the result opponent is made as respondent No.12(a). The appellant counsel is directed to carry out the amended appeal in the cause title of appeal memo.

Prl. Sr. Civil Judge and CJM
Udupi.

To carryout amendment and to file
amended appeal memo by
04.06.2025.