

ORDER ON I.A.No.XXXIX & XXXX

I.A No.XXXIX filed on behalf of applicant/plaintiff under Order 22 Rule 4 and Section 151 of CPC and praying to implead the I.A opponents as supplemental defendants No. 7(a) to 7(g) as

the legal heirs of the deceased defendant No.7/Puthu Poojarthi and prays to consequential amendment in the plaint.

I.A No.XXXX filed on behalf of applicant/plaintiff under Order 22 Rule 4 and Section 151 of CPC and praying to implead the I.A opponents as supplemental defendants No. 7(a)(i) to (iv) as the legal heirs of the deceased supplemental defendant No.7(a). Thukri Poojarthi and prays to consequential amendment in the plaint.

2. To the above applications other side counsel has submitted no objections.

3. Heard the learned counsel for the plaintiff and perused the material placed on record.

4. Following points arise for my consideration:-

- 1) Whether plaintiff has made out sufficient grounds to allow the applications?
- 2) What order?

5. My answer to the above points are as follows:

Point No.1: In the Affirmative.

Point No.2: As per the final order for the following:

REASONS

6. **Point No.1:-** It is stated in the affidavit filed in support of I.A No.XXXIX that the defendant No.7 died about one month

back leaving behind the proposed defendants No.7(a) to (g) who are the legal heir and legal representatives of deceased defendant No.7. After her death they are succeeded to their right, title and interest over the suit property and to the relief claimed in the suit. Hence it is just and proper to implead the applicants as supplemental defendants No.7(a) to (g) in the said suit.

In the affidavit filed in support of I.A No.XXXX that the supplemental defendant No.7(a)/Thukri Poojarthi died leaving behind the proposed defendants No.7(a)(i) to (iv) who are the legal heir and legal representatives of deceased supplemental defendant No.7(a). After her death the proposed defendants are succeeded to their right, title and interest over the suit property and to the relief claimed in the suit. Hence it is just and proper to implead the applicants as supplemental defendants No.7(a)(i) to (iv) in the said suit.

7. It is to be noted that, other side has not denied and disputed death of defendant No.7/Puthu Pojarthi and supplemental defendants No.7(a)/Thukri Poojarthi. Further it is not in dispute that, persons whose name shown in the applications are the only legal heir of deceased. Taking into consideration of reasons as mentioned in an affidavit, it can be held that, reasonable grounds made out to allow the applications. As there is no dispute that, proposed parties are legal heirs of deceased the right to sue survives in their favour. The present suit is filed for the relief of partition among the parties. In a partition suit the legal heirs of deceased are succeeded to their right, title

and interest over the property. The presence of these proposed parties necessary for effective adjudication of dispute involved in the suit. Hence, the grounds mentioned in above said I.As is believable. Hence I answer **point No.1 in the affirmative.**

8. **Point No.2:** On above made discussion on point No.1, I proceed to pass the following:

ORDER.

I.A.No.XXXIX and XXXX filed by the plaintiff under Order 22 Rule 4 and Section 151 of CPC is hereby allowed.

The proposed parties as shown in the schedule to the applications is ordered to be bring on record as legal heirs of deceased defendant No.7/ Puthu Poojarthi as defendant No.7(a) to (g) and supplemental defendant No.7(a)/Thukri Poojarthi as defendant No.7(a)(i) to (iv).

The counsel for the plaintiff is directed to carry out necessary amendment in the cause title of the plaint in this regard and furnish the amended copy of the same by: 07.08.2023

II Addl.Civil Judge & J.M.F.C.,
Karkala.

