

ORDERS ON IA NO. 28 AND 29 DATED 22.03.2024

The Plaintiffs have filed the above IA No. 28 under Order 6 Rule 18 and IA No. 29 under Section 151 of CPC by seeking recall of the Order dated 03.02.2024 and to permit them to carryout the Amendment of the Plaint as Ordered on the IA No. 11 to 13 by Order dated 23.09.2023.

The Defendants have filed their Common Objections to the IA No. 28 and 29.

Earlier, the Plaintiffs have filed the IA No. 11 to 13 by seeking Amendment of the Plaint and after contest, my Predecessor in the Office has allowed the said Applications by Order dated 23.09.2023 and directed the Plaintiffs to Amend the Plaint by showing Legal heirs of the Defendant No. 1. Due to non compliance of said Order dated 23.09.2023, my Predecessor in the Office has refused Oral request of the Plaintiffs Counsel to carryout the Amendment by Order dated 02.03.2024.

Now, the Plaintiffs are filing the above two Applications by seeking permission to carryout the Amendment Ordered on IA No. 11 to 13 dated 23.09.2023 and they also seek for setting aside the Order dated 02.03.2024.

OS No. 2/2019

The above Suit is for the relief of Declaration and for Permanent Injunction. The Defendant No. 1 and 2 are none other than own mother and son and the Defendant No. 1 was died and by way of filing IA No. 11 to 13, the Plaintiffs have brought the other Children of deceased Defendant No. 1 on record.

In the event, if I have Rejected the IA No. 28 and 29 only on technicalities like non complying the Order within prescribed time, then the Suit against the Defendant No.1 will be Abated. Though, the Defendant No. 2 is on record, but if the other LRs of the deceased Defendant No. 1 have not brought on record, then the Suit will become bad for non joinder of necessary Parties and the other LRs of Defendant No. 1 will be deprived of raising any Objections to the Suit. Therefore, only for the reason of delay on the part of the Plaintiffs to carryout the Amendment of the Plaint, they cannot be penalized by the Court and on imposing of exemplary costs Payable to the Defendants, they can be permitted to carryout the Amendment. Therefore, by Rejecting the Objections of the Defendants to the IA No. 28 and 29, I Proceed to pass the following:

ORDER

The IA No. 28 and 29 of the Plaintiffs are allowed by imposing penal costs of Rs. 1,000/- each Payable to the Defendants.

OS No. 2/2019

The Plaintiffs are strictly directed to carryout the Amendment as Ordered on 23.09.2023 and submit the Amended Plaint in 2 Sets duly signed by the Plaintiffs before next date of hearing.

If the above Order is not complied in letter and spirit, then it will be automatically Stands recalled on the next date of hearing.

Call on 21.09.2024.

**Itinerary
Senior Civil Judge
Hoovinahadagali.**