

**ORDER PASSED BELOW EXH.-122
IN
SPECIAL CIVIL SUIT NO. 18 OF 2018**

Appearance :

Ld. Adv. Mr. M. B. Joshi for the plaintiff.

Ld. Adv. Mr. C. D. Karia for the deft Nos. 1 & 3.

Ld. Adv. Mr. H. R. Shah for the deft. No. 2 .

Ex parte against the heirs of the deft. No. 1/8.

[1.1] The plaintiff has filed this application for joining of the heirs of the deft. No. 1/8 - Vinaykumar Pathak. The present application has been filed on 20/12/2018. The Ld. Adv. for the deft. No. 1 has produced documentary evidence list at Exh.-120 and declared the death of deft. No. 1/8 on 29/09/2018. Therefore, the present application is within limitation.

[1.2] The heirs of the deft. No. 1/8 could not have served; therefore, as per order passed below Exh.-142 they have been served by publishing the public notice. The daily news paper "Divya Bhaskar", dtd. : 04/11/2023 and 03/11/2023 are produced respectively at Mark-147/1 and 147/3. The bill for publication of public notice are produced vide Mark-147/2 and 147/4. The date for appearance was fixed 22/12/2023. On the said fixed date and then after, neither the heirs themselves nor through their Ld. advocate have appeared; not only that, no written report has been filed. No one has argued on behalf of the proposed heirs of the deft. No. 1/8.

[1.3] Heard the Ld. Adv. for the plaintiff. He has argued as per the application on hand; and for just disposal of the suit on hand, they must be ordered to be joined. The Ld. Adv. for the defts. are absent on calling out frequently.

[2] Perused the record and proceedings. Considering pleadings and facts on record, the proposed parties are necessary parties. Therefore, for just and reasonable disposal

of the suit, the heirs of the deft. No. 1/8 should be joined as parties.

[5] Under these circumstances, this Court is of the opinion that the present application deserves to be allowed. Hence, the following order is passed in the interest of justice.

- : ORDER :-

(a) This application at Exh.- 122 is hereby allowed under Order-XXII, Rule-4 of the Code of Civil Procedure, 1908.

(b) The proposed heirs of deft. No. 1/8 - (1) Bhartiben Vinaykumar Pathak, (2) Niraj Vinaykumar Pathak and (3) Bijal Vinaykumar Pathak, all R/o. 403/404, Siddhivinayak Apartment, 6/11 Jagnath Plot, Bh. Jagnath Temple, Rajkot are hereby ordered to be joined as heir of the deft. No. 1/8, as deft. Nos. 1/8/1 to 1/8/3.s

(c) The plaintiff-side is ordered and directed to amend the plaint and to file amended plaint within prescribed period of law.

(d) Summons for settlement of issues and show cause notices to show cause with regard to the pending applications to be served upon the newly joined heirs of deft. No. 1/8.

(e) The plaintiff Parties to bear their own costs.

Signed and Pronounced in the open Court on today this 12th day of January, 2024.

Halvad.

Date : 12/01/2024.

(Anil Nanalal Gajjar)
Principal Senior Civil Judge,
Halvad, Dist. Morbi. (GJ-01166)