

COMMON ORDER BELOW EX.26 & 28 IN R.C.S. No.459/2015
(Houshiram Agre+2 Vs. Gangadhar Agre & Ors.)

1] Plaintiffs filed application Ex.26 for condonation of delay for taking the legal representatives of defendant No.2 & 4 and application Ex.28 for taking the legal representatives of defendant No.2 & 4 on record. It is contended by plaintiffs that defendant No.2 Changdeo Kashinath Agre died on 14/01/2017 and defendant No.4 Narayan Kashinath Agre died on 10/01/2016 and they have no knowledge about the same. Hence, there is delay to take the legal representatives of them on record in stipulated time. They have not deliberately filed the application at belated stage. The legal representatives of defendant No.2 and 4 are necessary parties to the suit. Hence, they prayed to allow these applications.

2] Defendants have not filed say and hence these applications proceeded further without their say.

3] Heard plaintiffs at length. Defendants have failed to argue the same.

4] The delay for filing the application Ex.26 is not challenged by the defendants. Also the presence of legal representative of defendant No.2 Changdeo Kashinath Agre who died on 14/01/2017 and defendant No.4 Narayan Kashinath Agre who died on 10/01/2016 is necessary. Further, the presence of proposed legal heirs in the suit is necessary to decide the real controversy between the parties. Therefore, there is no bar to entertain these applications. If the applications are allowed, there will be no injustice to the defendants. Hence, following order is passed.

ORDER

1. Applications Ex.26 and 28 are allowed.
2. Plaintiffs are directed to take legal representatives of defendant No.2 Changdeo Kashinath Agre and defendant No.4 Narayan Kashinath Agre on record within stipulated period.
3. Supply copies of amended plaint to the defendants.
4. Issue suit summons to the newly added defendants.

Rahata.
Date :- 03/01/2020

(V.A. Lavand-Kokate)
3rd Jt. Civil Judge Junior Division
Rahata