

MHAH220008662023



R.C.S. No. 146/2023

Bapu Govinda Karpe

Vs.

Waman Keru

Mandage and Ors.

ORDER BELOW EXH.21

(Passed on 05/03/2024)

This is an application filed by the proposed legal representative of plaintiff for setting aside an abatement order of deceased plaintiff Bapu Govinda Karpe.

2. It is the contentions of the proposed legal representative of plaintiff that the plaintiff died on 14/09/2023, therefore, it is necessary to setting aside an abatement order of deceased plaintiff Bapu Govinda Karpe.

3. Defendant No.2 filed say on the present application, wherein he has stated that the application may be allowed subject to costs.

4. Defendant No. 1, 3 and 4 have not appeared in the present suit.

5. Heard learned advocate Mr. S. R. Gaikwad for the proposed legal representative of plaintiff. Also heard learned advocate Mr. K. S. Shewale for defendant No. 2.

6. After perusal of record it appears that present suit filed by the plaintiff for permanent injunction, measurement and marking of boundaries.

7. It is the contentions of the proposed legal representative of plaintiff that the right to sue survives even after death of the plaintiff . It is pertinent to note here that reason mentioned in the present application is not proper and genuine. However, the present suit is relating to the immovable property. If the application is allowed no prejudice will cause to defendants. Per contra, it will avoid the multiplicity of the proceeding. For fair trial it is necessary to give an opportunity to the plaintiff. If an opportunity is not given to the plaintiff it will cause hardship to her. So in the interest of justice, I proceed to pass the following order.

ORDER

1. The application is allowed.
2. Abatement order of deceased plaintiff Bapu Govinda Karpe is hereby set aside.

(Pronounced and dictated in open Court)

Date : 05/03/2024.

(**Rohan Vijaykumar Thayil**)
2nd Jt. Civil Judge, Junior Division
Karjat, Dist.Ahmednagar