

**Regular Civil Suit Number 84/2013
CNR Number MHAH-23-000118-2014**

1.Kusum Dilip Chobhe Plaintiffs

Versus

1.Dilip Namdev Chobhe Defendants

ORDER BELOW EXHIBIT 94

- 1) The plaintiffs have moved the application vide exhibit 94 for amendment of plaint. Plaintiffs have stated that defendant Number 5 died on 18/01/2015. Hence word 'deceased' is to be inserted after name of defendant Number 5 in the plaint. Defendant number 1 to 4 and 9 to 12 are legal representatives of deceased defendant number 5 and they have already joined suit as defendants.
- 2) The defendants have not filed say. But, they raised strong objection orally and submitted that application is to be rejected.
- 3) I have perused application vide exhibit 94. I have heard both sides at length. The following points arise for my determination.

Sr.No.	Points	Findings
1.	Whether proposed amendment will change nature of suit?	No
2.	Whether proposed amendment is necessary for the purpose of determining the real question in controversy between parties?	Yes
3.	Are plaintiffs entitled for relief of amendment?	Yes
4.	What is order ?	The application is allowed.

REASONS

As to point number 1 to 4 -

- 4) The point number 1 to 4 are interlinked with each other. I have clubbed point number 1 to 4 together and discussed accordingly. The present suit is for partition and perpetual injunction. The plaintiffs are seeking the amendment that the word 'deceased' is to be inserted after name of defendant number 5 in the plaint.
- 5) I have perused death certificate of defendant number 5 vide Exhibit 97. It reveals that defendant number 5 died on 18/01/2015. Therefore, it is necessary to insert the word 'deceased' against his name in the plaint. I have perused Article 120 of The Limitation Act. The plaintiffs are filing application for inserting word "deceased" after name of defendant number 5 in the plaint and not for bringing legal representatives on record. Therefore, question of limitation and delay will not arise. In order to enable the court to adjudicate effectively, completely, to settle all the questions involved in the suit, and in the interest of justice, it is necessary to allow the application. Proposed amendment will not change the nature of suit and the defendants will get an opportunity to put up their say. In the result, the following order is passed.

ORDER

- 1) The application vide exhibit 94 is allowed.

- 2) The suit shall be amended accordingly on or before next date and the plaintiffs must file copy of amended plaint on or before next date. The suit shall proceed further in accordance with provisions of law.
- 3) There shall be no order as to cost, after considering the facts and circumstances of the present suit.

Sd/-

Place - Shrigonda

Date – 24/11/2022

Smt. K. A. Katkar

Joint Civil Judge J. D, Shrigonda.

CERTIFICATE :-

I affirm that the contents of this pdf file order are same words as per original order.

Case No.	:	R.C.S. No. 84/2013
Name of Stenographer	:	Smt. S. V. Jadhav
Court Name	:	Smt. K. A. Katkar, Joint Civil & Criminal Court, Shrigonda.
Date of Decision	:	24/11/2022
Order signed by P.O. on	:	24/11/2022
Order uploaded on	:	24/11/2022