

ORDER BELOW EXHIBIT 135 IN RCS NO. 92/2015

The present application is moved by the plaintiff citing Order 9 Rule 12 of the CPC.

2. Heard the learned Advocate for both sides. Perused the application, say and record of the case.

3. By way of the present application the plaintiff is praying for discharge of the next friend and election to proceed with the suit. The application is opposed by the defendants contending that as the matter is languishing without any reason for the compliance of order of this court it may be rejected. Further, it is resisted by the defendant no.1 on the ground that the application is after thought and the plaintiff should have being brought on record within stipulated time.

4. At the outset it is pertinent to note that wrong provision is quoted in the present application. But that it is not fatal to the present application. From the prayer it is clear that the present application is under order 32 Rule 12 of the CPC. There is no dispute about the fact that the minor plaintiff has attained majority. By way of the present application she has elected to continue with the suit and is praying for discharge of next friend. In my view the objection raised by the defendants are not sufficient to restrain the plaintiff from exercising her right to continued with present suit.

5. In view of the Order 32 Rule 12 Sub Rule 5, a notice to the next friend is essential while discharging him. It is worthy to note that next friend Ramesh Indrabhan Bharkashe is present in the suit

on each and every date alongwith the applicant and has complete notice of the present application. As such there is no necessity to issue separate notice to him under Sub Rule 5.

6. In view of above discussion the aforesaid application is liable to be allowed. Hence, the order.

ORDER

1. The applications is allowed.
2. The title of the suit shall be amended/corrected as per Sub Rule 2 of Rule 12 of Order 32 of the CPC.
3. The Correction shall be made within 7 days from today and corrected copy of the plaint shall be filed on record.

Date : 26/06/2024
Place : Akot

Bhanupratap Chouhan
Joint Civil Judge Junior Division

Certificate

I affirm that the contents of this P.D.F. File are same word for word as per original order.

Name of Steno	- P. J. Yadav
Court Name	- Jt. C.J.(J.D.) & J.M.F.C. Akot
Date	- 29/06/2024
Signed by Presiding Officer on	- 29/06/2024
Uploaded on	- 01/06/2024