

Regular Civil Suit No. 15/2019

Bharti Jaju+2 -vs- Ajay Jaju+4

ORDER BELOW EXH.42

(Passed on 31.10.2023)

The present application has been filed by the plaintiffs to add the legal heirs of deceased defendants No.1 and 2 on record under the provisions of Order XXII Rule 4 of the Code of Civil Procedure, 1908.

2. It is submitted by the plaintiffs that defendant No.1 – Ajay Ghansham Jaju and defendant No.2 Shobha Ghansham Jaju (hereinafter shall be referred to as “the deceased” for the sake of brevity and convenience) were died on 29.05.2019 and 02.01.2023 respectively. The cause of action to sue is still survive against the legal heirs of the deceased. Hence, they prayed to allow the application.

3. The says of the defendants were called. The say was filed overleaf and strongly opposed the application. Heard both sides and their learned advocates.

4. Taking into consideration the application, the say and submissions of advocates for both sides, the following points arise for my determination to which I have recorded my findings along with the reasons thereunder-

Sr. No.	Points for determination	Findings
1.	Whether the plaintiffs have proved that they are entitled to add the legal heirs of the deceased to the present suit ?	No.
2.	What order ?	The application is rejected.

REASONS

AS TO POINTS NO. 1 AND 2 :

5. Both these points are interlinked with each other. Therefore, in order to avoid the repetition of the facts, these points are taken together for discussion. The applicants have filed the present application along with the affidavit. The learned advocate for the plaintiff submitted that the proposed defendants are the only legal heirs of the deceased.

6. Perused the application and the say. The present suit is filed for declaration and permanent injunction. The plaintiff filed this application to add the legal heirs of the deceased to the present suit. On perusal of the record, it is clear that the proposed legal heirs of the deceased are already party to the present suit as plaintiff Nos. 1 to 3 and defendant Nos. 3 to 5. Therefore, there is no need to again add them as a party to the present suit.

7. Considering the facts and circumstances, the present application is devoid of merits and it is baseless. Hence, it is liable to be rejected. Therefore, **point No. 1 is answered in the negative.** Considering the nature of the application, it would be just and proper that the both parties shall bear their own cost. **In answer to point No. 2, the following order is passed.**

	<u>ORDER</u>
1.	The application (Exh. 42) is rejected.
2.	Both the parties shall bear their own costs.
	(Dictated and pronounced in the open Court).
	Date : 31.10.2023 Teosa (Vaibhav H. Shende) Civil Judge Junior Division, Teosa.