



ORDER BELOW EXH. 91

Dt. 21/10/2021

1. The plaintiff has filed this application for bringing the legal heirs of deceased defendant no. 1 on record.
2. It is his contention of the that, the defendant no. 1 namely Suresh Rajeramji Khasbage died on 14/04/2021, he is having 5 legal heirs behind him. Their names is mentioned in the application and therefore the plaintiff has filed this application to bring the legal heirs of deceased defendant no. 1 on record as defendant no. 1-A to 1-E.
3. The defendant no. 1 has filed his say on the back side of application. It is his contention that he has no objection for so far as the application u/o. 22 Rule 4 for taking L.R. on record. But it is his contention that this application was filed after the period of limitation and hence, it is not tenable and the suit is automatically abated.
4. The defendant no. 2 has filed his say on the back side of application. It is his contention that, the defendant no. 1 was died on 14/04/2021 but the plaintiff has filed this application after the period of limitation i.e. 90 days and hence, it is not tenable and the suit is automatically abated.
5. Heard both sides.
6. It is the contention of the plaintiff that the defendant no.1 died on 14/04/2021. The plaintiff has filed xerox copy of death certificate of Suresh Rajaram Khasbage. The advocate of the defendant



no. 1 and 2 in their say have no were denied the fact of death of defendant no. 1.

7. I have gone through the plaint. The plaint shows that it is the suit for partition, possession and declaration. The plaintiff wanted to bring on the record the legal heirs of deceased defendant no. 1. In all Five names are mentioned in the application as legal heirs of deceased defendant no. 1. It is the contention of the defendants that the application was filed after the period of limitation and hence, the suit is liable to be abated. The suit is for partition and hence, it is necessary to bring the legal heirs of record for the proper disposal of suit. Further as it is a suit for partition, it can not be abated for delay in bringing the legal heirs on record. All the legal heirs, of the defendant no. 1, are necessary parties. Hence, the following order :-

ORDER

1. The application is allowed.
2. The plaintiff is permitted to bring L.R. of deceased defendant no. 1 on record as mentioned in the application and amend the plaint accordingly.

Dt. 21/10/2021.

(M.S. Ligade)
Jt. Civil Judge, Jr.Dn.,
Warud.



MHAM180006622012
R.C.S. No. 94/2012
Gopal -Vs.- Suresh