

**ORDER BELOW EXH.09
(Dated 03.10.2022)**

The instant application is filed under order 22 rule 3 of Code of Civil Procedure for bringing legal representative of deceased plaintiff who expired on 28.05.2022.

2] It is averred that plaintiff expired on 28.05.2022. The legal representative of deceased plaintiff are mentioned in para no.1 of the application. It is necessary to allow the application. Hence, prayed for allowing the application.

3] The suit proceeded exparte against the defendant.

4] Heard the counsel for plaintiff and with his assistance perused the record.

5] It is well settled that legal representative means a person who is law represents the estate of deceased person and includes any person who intermeddles with the estate of deceased. It is pertinent to note that, legal representative as contemplated under Order 22 of C.P.C. does not imply bringing legal heirs on record. The only thing to be borne in mind while deciding present application is whether the right to sue survives on death of deceased plaintiff. The suit is for declaration. Therefore, considering the nature of suit, right to sue survives.. The

application is not supported by death certificate of deceased plaintiff. The applicants herein to supply it within a fortnight. The present application is moved on 25.07.2022 i.e. within the period of 90 days from the date of death. The application is well within limitation. Therefore, for proper adjudication and effective disposal of matter, it is necessary to bring and add proposed legal representative of deceased plaintiff. Hence, no impediment is allowing the application. In the result, I pass the following order-

ORDER

- 1] Application is allowed.
- 2] The legal representatives of deceased plaintiff be taken on record by carrying out necessary amendment in plaint within the period of 14 days from today and also to supply copies of amended plaint accordingly.
- 3] The applicants herein to file death certificate of deceased plaintiff within a fortnight from today.

Date : 03/10/2022

Place: Parli Vaijnath.

(Anupam S.Sharma)
Jt. Civil Judge Junior Division,
Parli Vaijnath.