

**Order below Ex.27.****(Passed on 18.04.2018)**

The present application is filed by the plaintiffs to amend the cause title of the suit. The sum and substance of the application is that plaintiff No.3 who was trustee of plaintiff No.1-trust died on 15.09.2017. In place of plaintiff no.3 a new trustee has been appointed and accepted by the office of Assistant Charity Commissioner, Buldana vide its order dated 22.12.2017. And as per the said order a new trustee i.e Shri. Pramod Vasantryo Ganesh has been appointed in the place of plaintiff no.3. Now the present application is for adding Shri. Pramod Ganesh in the place of plaintiff no.3.

2. The defendant opposed the application. It is the contention of the defendant that the proposed plaintiff no.3 i.e. Pramod Ganesh has not filed the present application. Thus, a notice be given to him. He prayed for rejection of the application.

3. Heard advocates Shri. Sarda for plaintiff and Shri. Gandhi for defendant.

4. Before going to the merits, of the application, I wish to consider the provision of Order 1 Rule 10 of the Code of Civil Procedure. It lays down that the court may at any stage of proceeding either upon or without the application of either party may add or subtract a parties. Thus, in view of provision of Rule 10

of Order 1 the court may add or subtract any of the parties at any stage of the suit.

5. The present application is supported with the death extract, change report and the order of Assistant Charity Commissioner Buldana in respect of the change of trustee i.e plaintiff no.3. The fact of the death of plaintiff no.3 has not disputed by the defendant. Even the defendant has not disputed the change report and the proceeding which was conducted before the Charity Commissioner, Buldana. Thus, it is quite clear that the proposed plaintiff no.3 has been appointed as a trustee of plaintiff no. 1 - trust.

6. During the course of argument Advocate for defendant submitted before me that the notice be given to proposed plaintiff No.3 on the basis of principles of natural justice. Per contra advocate for plaintiff submitted that the suit is filed by plaintiff no.1 trust. The rest of the trustees are formal parties who are representing the trust. I considered the submissions of both advocate. Firstly, it is important to note that a fact of death of plaintiff no.3 is not at all disputed. Secondly, appointment of proposed plaintiff no.3 is not also disputed. So far as the question of giving notice or filing of the application at the instance of proposed plaintiff no. 3 is concerned, for that the plaintiff trust has filed the present application. It is settled principle of law that a plaintiff is master of his own suit. The plaintiff may add or subtract any of the parties. The only question which requires to be considered as to the complete adjudication of the questions involved in the suit. Now the appointment proposed plaintiff no. 3

in place of plaintiff no.3 is undisputed. Thus, by adding proposed plaintiff no. 3 in the place of plaintiff no.3 would not cause any prejudice to the defendant. Rather, it would help the court to decide the real controversy in the suit. Thus, I think it would be proper to add proposed plaintiff no.3 in the place of plaintiff no.3. Thus, considering the above discussion, I pass following order,

**: ORDER :**

- 1) The application is allowed subject to cost of Rs.100/-.
- 2) The plaintiff do carry necessary amendment within 14 days from today.
- 3) Parties and their Advocate do take note of the order.

Place : Shegaon  
Date: 18.04.2018

( V.V. Kulkarni)  
Civil Judge Junior Division,  
Shegaon, District Buldana.