

**IN THE BOMBAY CITY CIVIL COURT AT MUMBAI.****ORDER BELOW EXHIBIT 40****IN****S.C SUIT No. 406 OF 2014**

Kurla Malayalee Samajam Trust

...Plaintiff.

VERSUS

M/s. Rajesh &amp; Associates &amp; Ors.

...Defendants.

**Appearance**

Mr. Wilson Cherian learned Advocate for the plaintiff.

Mr. Mukesh S. i/b.Mohan Tekande learned Advocate for defendant Nos.1, 3 to 6.

Mr. Mangesh Kokare i/b. Adv.Zaid Ansari learned Advocate for defendant Nos.2 and 7.

**CORAM : RAJESH A. SASNE (C.R.NO.62)****Ad-hoc Judge.****Date : 18<sup>th</sup> July, 2022****ORDER**

The plaintiff by this application requested to abate the suit against defendant No.2.

2. It is the contention of the plaintiff that defendant No.2 has expired in the month of September, 2021. Vide letter dated 13.01.2022 the details of legal heirs were sought. The said letter was returned back with remark unclaimed. Thereafter, also on 14.02.2022, the plaintiff sent letter to Mrs. Rajesh Rao, it was also returned back. Thereafter, letter dated 09.03.2022 has been received by learned Advocate for defendant No.2. In spite of the said fact no details of legal heirs are provided. Learned Advocate for the defendants has also failed to appear before the Court on last date of hearing, therefore, the plaintiff

requested to abate this suit against defendant No.2.

3. Heard learned Advocate for the plaintiff and learned Advocate for defendant Nos.3 to 6.

4. Today at the time of passing of order learned Advocate for defendant No.7 appeared and filed pursis Exh.42 providing details of the legal heirs of deceased defendant No.2 and also copy of the death certificate. He urged that the plaintiff to take necessary steps for bringing legal heirs on record.

5. Learned Advocate for the plaintiff is not willing to take legal heirs of defendant No.2 on record. It appears that, learned Advocate for defendant No.2 wants legal heirs of defendant No.2 to be brought on record but he has also not taken any steps in that regard.

6. Coming to the short point involved in the present application. The plaintiff requested to abate the suit against defendant No.2. Read the copy of death certificate filed alongwith pursis Exh.42. Defendant No. 2 has expired on 15.09.2021. The suit is already abated against defendant No.2. It is settled position of law that no express order is required to abate the suit against defendant No.2. Hence, with these observations, I pass following order

**ORDER**

- 1.Exh.40 is dismissed as no express order to abate the suit is required.
2. Suit is already abated against defendant No.2.

**Date : 18.07.2022**

Dictated on : 18/07/2022

transcribed on : 19/07/2022

Signed on : 20/07/2022

**(R.A. SASNE)**  
**Judge,**  
**City Civil Court,**  
**Mumbai.**

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”

20.07.2022 at 5.50 p.m.  
UPLOAD DATE AND TIME

Mr. S.S. Bathe  
NAME OF STENOGRAPHER

<b>Name of the Judge(with CR No.)</b>	<b>HHJ SHRI. R.A. SASNE (C.R.No.62)</b>
Date of pronouncement of Order	18/07/2022
Order signed by P.O. on	20/07/2022
Order uploaded on	20/07/2022