

MHJG040035082020



M.C.A. No. 01 OF 2021

[Pandit Vitthal Talele +3 Vs.
Yuvraj Pundalik Khadke +7]

ORDER BELOW EXH.14

This is an application under Order-XXII Rule-4 of Code of Civil Procedure, 1908 for bringing the legal representatives of deceased respondent No.1 and deceased respondent No.4 who died on 27.01.2025 and 12.02.2025 respectively.

2] According to the appellant, respondent No.1 died on 27.01.2025 and his legal representatives are Suman Yuvraj Khadke, Ganesh Yuvraj Khadke, Kishor Yuvraj Khadke, Mamta Tushar Patil. Similarly, respondent No.4 Raghunath Namdev Talele died on 12.02.2025 and his legal representatives are Bharat Raghulath Talele and Chandrakala alias Madhuri Sanjay Patil. The appellant further submitted that he preferred present appeal against the order passed by 5th Civil Judge Junior Division, Jalgaon below Exh.6 for temporary injunction dtd. 16.12.2020. Thereby, rejected the application for temporary injunction. The appellant further submitted that the dispute in between the parties is in respect of immovable property. Hence, right to sue survives. Hence, it is necessary to bring legal representatives of deceased respondent Nos.1 & 4 on record. Accordingly prayed for.

3] Contents of the application as well as death certificates filed on record show that present application is moved well within 90 days i.e. within limitation. Hence, I am deciding this application without calling say of the respondents.

4] Today, the case is fixed for first hearing. On going through the extract of death of both the respondent Nos.1 & 4 it shows that they died on 27.01.2025 and 12.02.2025 respectively. Present application is moved on 15.02.2025 i.e. well within limitation. Further on perusal of the order passed by the Ld. Trial Court, it reveals that it is in respect of removal of encroachment and prayer for temporary injunction along with perpetual injunction. Under such circumstances, right to survives. There will be no prejudice to the respondents in case legal representatives of the deceased respondents are brought on record. Considering the facts of the case, I am of the view that application deserves to be allowed. Hence, I pass following order :

ORDER

- (i) Application Exh.14 is hereby allowed.
- (ii) The appellant is permitted to bring legal representatives of deceased respondent Nos.1 & 4 on record as prayed in the application.
- (iii) Appellant to carry out necessary amendment in the appeal memo within stipulated period of time.
- (vi) Appellant to submit and supply consolidated copy of appeal memo on record.

[Dictated and pronounced in open Court.]

Jalgaon.

Date : 30/03/2026

(S.V. Khongal)
District Judge-1, Jalgaon.