

ORDER BELOW EXH.65

This is an application filed by plaintiff No. 3 to add plaintiff Nos. 1, 2, 4 in the array of defendants. According to plaintiff No. 3 vide Pursis at Exh.53 and 56 respectively plaintiff Nos. 1, 2, 4 have mentioned that they do to want to proceed in the matter and thus their name should be deleted from the same. However, the matter is for partition and separate possession and thus all of them are still necessary party to the matter and their presence in the suit is essential for proper adjudication. Hence, this application is for transposing the parties.

2. The second relief claimed by the plaintiff is to bring on record legal representatives of deceased in collusion defendant No.6 Mathurabai Suklal Rathod who died on 18-12-2007. It is seen from record that defendant No. 6 died on 18-12-2007 and the prescribe period of limitation to bring her legal representatives on record was only of 90 days from the date of death. However, plaintiff is pressing for the same in this application. Such relief is not proper at this stage as the plaintiff has not prayed for the setting aside of abatement against defendant No. 6 and has not prayed for condoning the delay for filing the application.

3. In respect of the first relief claimed by plaintiff No. 3, I am of the opinion that the ground shown by him is proper to add plaintiff Nos. 1, 2, 4 in the array of the defendants. They are indeed necessary party

for the suit and in their absence the matter cannot proceed in the proper manner and the adjudication shall fail. This might further give rise to multiplicity of litigations. Hence, without causing prejudice to any party and in the interest of justice, I pass the upcoming order :-

ORDER

1. Application is partly allowed.
2. Name of plaintiff Nos. 1, 2, 4 be removed from array of plaintiff and be added in the array of defendants and be numbered as defendant Nos.3 to 5 respectively.
3. Plaintiffs are directed to make necessary changes in the plaint in respect of newly added defendants within 14 days from today.
4. After the compliance is done, summons be issued to the newly added defendants to appear and answer the claim and to file their written statement, if any, within 30 days from receipt of summons.
5. Prayer in respect bringing of legal heirs of deceased Mathurabai Suklal Rathod on record is rejected.

Date : 04.03.2020

sd/-
(A.S.Bhasarkar)
Jt.Civil Judge Jr.Dn.
Chalisgaon