

MHJN020011812020



SPL. C.S. NO.91/2020

Paras vs. Prayagbai

ORDER BELOW EXH-1 IN SPL.C.S. NO. 91 OF 2020

(Passed on dated 16/08/2021)

The plaintiff has filed the present suit against the defendant namely Prayagbai Rambhau Barokar for Specific Performance of Contract. After institution of the suit, order of suit summons came to be passed on 14.09.2020. However, in the meantime i.e. today itself one Punjaram Sakharam Gholak preferred an application under the provisions of Order I rule 10 of the Code of Civil Procedure to array him as a defendant in the present suit. Astonishingly, after perusing application coupled with the documents i.e. one death certificate in the name of defendant Prayagbai it appears that the defendant Prayagbai was died on 01.05.2014 i.e. approximately 6 years ago prior to filing of the present suit. Moreover, the report of the Bailiff at Exh-5 also reveals that the defendant is died 2 to 3 years ago. Under such circumstances, the question arose as to how the plaintiff has filed the present suit against a dead person and it equally raised the question of maintainability of the suit against the dead person. Therefore, the plaintiff is directed to show how the suit is maintainable against a dead person i.e. against defendant.

Sd/-

(S.T. Chikane)

Date : 16/08/2021.

4th Joint Civil Judge (S.D.)
Jalna.

C E R T I F I C A T E

I affirm that, this PDF file is word to word as per original Order/Judgment.

Name of Stenographer : S.M.Sapkal,
Name of Court : 4th Jt.Civil Court,(S.D.) Jalna,
Date of PDF : 16/08/2021.

Sd/-
(S.M.Sapkal)
Stenographer (L.G.)