

MHKO010025092017



Order below Exh.22 in M.A.C.P. Dar. NO. 127 of 2017.

1. This is an application filed by the Opponent No.2-A and 2-B under Section 50 of C.P.C.
2. The Opponent No.2-A and 2-B submitted that the D.H. has filed present Darkhast for recovery of amount of Rs.10,94,461/-. The Opponent – Prabhakar Shamrao Fadnis died on 10/06/2018. The opponent No.2-A and 2-B not received any immovable property from the deceased Prabhakar Shamrao Fadnis, so that decree can not be executed against the present Opponent No.2-A and 2-B. Therefore, present Darkhast proceeding be rejected and name of the Opponent No.2-A and 2-B be deleted from the said Darkhast.
3. The said application is opposed by the D.H. by filing say vide Exh.25. It is contended that the Opponent No.2-B did not signed the said application, so that the said application is not tenable in the eyes of law. To avoid to give compensation to D.H., the Opponent No.2-A and 2-B filed present false application before this Court. The J.D./Opponent No.2, Prabhakar Shamrao Fadnis died on 10/06/2018 and Opponent

No.2-A and 2-B are his legal heirs. D.H.No.5 i.e. a mother of the deceased D.H. is old aged woman of 80 years and she is suffering from paralysis, so that amount of compensation is required for her treatment. D.H. was the sole breadwinner of his family. Due to his death in accident, the family members of D.H. are facing financial crisis.

4. The Ld. Advocate for the D.H., Mr.A.N.Jadhav argued that Opponent No.2-A and 2-B and their advocate intentionally absent and not present before the Court to avoid compensation and execution of decree. So that application at Exh.22 be rejected.

5. I have gone through the record and proceeding and found that the notices were duly served to Opponent No.2-A and 2-B. They appeared through their Ld. Advocate, Mr. Solankure, but thereafter, opponent No.2-A and 2-B and their Ld.advocate remained absent. The present application is pending since 12/03/2019 i.e. for 4 years. Therefore, it is necessary to reject the said application. Hence, this Court proceed to pass the following order:-

ORDER

Application at Exh.22 is hereby rejected.

Date : 13/06/2024.

(Shailendra Tambe)
Member, M.A.C.T., Kolhapur.