



RCS NO.350/1996.
Raghunath V/s Balu.

Order passed below Application Exhibit – 427.

It is reported that, Deft.No.10 – Chandrabai Bhikaji Khot is no more. She died on 30-05-2022, leaving behind her LR's. This court after hearing both the sides has passed elaborate order and, thereby, condoned the delay caused to set aside the abatement order. At that time, also imposed certain costs.

(2) Now, by filing present Appln., the Plff/s. seek permission to bring on record the LR's of deceased Deft.No.10 – Chandrabai Bhikaji Khot.

(3) Regard must be had that, Deft.No/s.3D, 3D-1, 3D-2 and 3D-3 are already on record. It appears that, insertion is in respect of Deft.No.10A-Bhikaji and 10-B Baban. O.XXII of the Code makes it incumbent on the part of the learned counsel appearing for a party to the suit to inform the court about the death of that party. In compliance thereof, the death of Deft.No.10 – Chandrabai Bhikaji Khot is informed and by filing present Appln., the Plff/s. seek leave of this court to implead persons named in the Appln. in lieu of deceased Deft.10 – Chandrabai being her LR's.

(4) It is law of land that, the death of a plaintiff or defendants shall not cause the suit to abate if the right to sue survives. The limitation for an application for the purpose of bringing on record the legal representatives of a deceased Plaintiff is under Art.120 of the Limitation Act, 1963, ninety days starting from the death of the party. I have perused article 121. As regards the delay, it has already been condoned. Even abatement order is also set aside. Hence, I pass the following order :-

ORDER

(i) Appln. is allowed, subject to costs of Rs.500/- payable to the contesting Deft/s.

(ii) The Plff/s. are permitted to bring on record the legal heirs as mentioned in the Application, in the array of the Deft/s.

(iii) It will be open to the newly impleaded Deft/s. to raise genuine question as regards the representatives character of newly impleaded party, if any. In such exigency, it will be decided on its own merit.

(iv) Issue summons to the newly impleaded Deft/s.

(v) The Plff/s. to carry out the necessary amendment in the plaint within 14 days from today; also place on record the copy of amended plaint.

(vi) The Plff/s. to furnish copies of plaint/Application as well as documents placed on record alongwith List Exh.No.3. Same be annexed a/with summons issued to the newly impleaded Deft/s.

(vii) Furnishing of those copies, as well as payment of costs imposed and complying with the directions given in clause (vi) shall be condition precedent for issuance of summons. Needless to mention, failing thereto, necessary orders will be passed as per Order IX Rule 5 of the Code.

(viii) Issuance of notices to the LR's of Deft.No.10 – Chandrabai Bhikaji Khot will kill the precious time of the court thus, the learned Adv of the Deft/s. is called upon to place on record the pursis and waive the service.

(Ganesh A. Ghule)
3rd Joint Civil Judge (Jr.Divn.)
Ichalkaranji.
J.O.Code : 2594.

Date : 01-12-2022.

प्रमाणपत्र

मी अशी खात्री देते की, सदर पी.डी.एफ. संचिकेमधील मजकुर मुळ न्यायनिर्णयाप्रमाणे / आदेशाप्रमाणे प्रत्येक शब्द बरोबर आहेत.

लघुलेखकाचे नाव — श्रीमती किर्ती कि. ढेरे.

न्यायालयाचे नाव — ३रे सह दिवाणी न्यायाधीश क.स्तर व न्यायदंडाधिकारी वर्ग १, इचलकरंजी.

आदेश दिनांक	: ०१.१२.२०२२.
पिठासिन अधिका—यानी स्वाक्षरी केलेला दिनांक	: ०१.१२.२०२२.
आदेश/न्यायनिर्णय अपलोड केलेला दिनांक	: ०२.१२.२०२२.