

MHKO050009552018



**R.C.S. No.110/2018**  
**Shri Arun Hanmant Kulkarni Through**  
**POA Shri Pradip Vishnu Kumbhar**  
**Vs.**  
**Mukund Hanmant Kulkarni**

**Order Below Exh.58**

1. Present application has been placed by the legal heirs plaintiff of deceased plaintiff Arun Hanmant Kulkarni vide Order 22 Rule 3 and section 151 of Civil Procedure Code, 1908 seeking permission to implead applicant as legal heir of deceased Plaintiff Arun (In short referred as 'the deceased'). As per contention of the applicant, after the death of plaintiff applicant No. 1 and 2 are legal heirs of deceased person. The present suit is filed by sole plaintiff, therefore, to try to suit it is required to implead legal heir of deceased. Defendants has filed say on this application and taken objection to the prayer of applicant and further contended that the applicant has not filed identification of deceased Arun Hanmant Kulkarni. Finally prayed for rejection of application.
2. Perused the application. Heard, learned advocate appearing on behalf of plaintiff. As per submission of applicant, it is require to implead them in the suit, to decide suit on merit. If application is rejected then grave harm and huge loss will be caused to the applicant, as the suit is filed in respect of immovable property. Further, submitted that it is necessary to implead the legal heir of deceased in the suit to carry out the suit and to take further steps. He has further submitted that, identification of deceased person is already prove by giving sufficient evidence. At this stage to proceed with the suit it is required to implead to legal heirs on record.

3. Perused the documents filed by plaintiff along application. From the record it appears that suit is more than 7 years old and same is pending for evidence of plaintiff. The matter was not proceeded as said plaintiff died in mean time. There is sole plaintiff in this suit. No say filed by defendants. Considering the nature of suit, it is legal title of property and right of legal heir are involved. If the application is rejected then they will be deprived from their right. Considering the application, it would be proper to allow the application because if the legal heir of the deceased would not be made party in this suit then grave injustice would be caused to her. Moreover, the defendant will get chance to challenge the identification of deceased person by leading evidence. Therefore, due to mere technicalities, applicant's right of being heard cannot be denied. If applicant is added as party they will be legally entitled to proceed with the suit. After hearing the arguments of concern and to proceed with the suit, the prayer of applicant with regards to implication of legal heirs came to be allowed by passing following order :-

**Order**

The Advocate of the plaintiff is hereby directed to implead the present applicants as legal heir of deceased plaintiff, as soon as possible or within 14 days from the date of this order, if failed to do, in consequence suit will be dismissed.

Place -Ichalkaranji  
Date :- 03/09/2025.

**(Archana M. Gaikwad)**  
3<sup>rd</sup> Joint Civil Judge, J. D.,  
Ichalkaranji, Dist. Kolhapur.