

MHKO050021622016



ORDER BELOW EXH. 112 REG. CIVIL SUIT NO. 145/2016

1. This is the application of plaintiff for bring legal heirs under Order 22 Rule 9 of Code of Civil Procedure.

2. The plaintiff stated that defendant no. 5 Shamshuddin Gulab Gawandi was died on 30.10.2020. She has legal heirs as mentioned in the application. Hence, prayed to bring legal heir of defendant no. 2.

3. Defendant no. 2 has filled his say at Exh. 113 and contended that defendant no. 5 was died on 30.10.2020. After 90 days defendant no. 5 was automatically abated. There is three years delay. There is no reason mentioned to delay the matter. The reason of illiteracy is not acceptable. Plaintiff and defendant are nearby resident. Defendant no. 5 is brotherhood of plaintiff, so reason that plaintiff does not know about death of defendant no. 5 is not acceptable. The legal heirs of defendant no. 5 is residing in their share. Plaintiff know names of all legal heirs of defendant no. 5. Plaintiff know that defendant no. 5 was died, then plaintiff filed his affidavit. If delay condone application is liable to rejected, then there

is not question of amendment application. Hence, prayed to reject the same with costs.

4. Heard advocate of both sides. It appears that there is no cogent reason in the application. The defendant no. 3 has died on 30.10.2020. The ignorance of law is not acceptable. The plaintiff has not stated anything about the same, Hence, already approximately 3 years has been lapsed from date of death, Hence, it is necessary to impose cost to compensate the other side, Hence, the order.

ORDER

1. Application at Exh. 112 is allowed subject to cost of Rs.200 /- and abatement order is set aside.
2. Plaintiff is allowed to bring heirs of defendant no. 2 subject to compliance of cost.

Ichalkaranji
Date: 21.03.2024

(S. S. Pednekar)
6th Jt. Civil Judge Junior Division,
Ichalkaranji