

MHKO050021622016

**R.C.S. No. 145/2016****Raju Gavandi & Ors. Vs Ramajan Gavandi & Ors.****Order Below Exh. 115**

Present application is filed by plaintiffs as per Order VI Rule 17 of the Code of Civil Procedure for amendment of plaint.

02. It is submitted that plaintiff No. 2 Smt. Daulatbi Moula Gavandi is expired. Her death certificate is also filed on record. Plaintiff No. 2 has only 2 heirs i.e. plaintiff No. 1-A and 3. Hence, it is necessary to delete name of plaintiff No. 2 from the plaint. By allowing the amendment, no prejudice will be caused to other side. Hence, they prayed to allow the application.

03. Defendants have filed their say overleaf of the application and submitted that appropriate order may be passed.

04. Heard both sides.

05. Present suit is filed for partition, separate possession and perpetual injunction in respect of immovable property. As per Article 120 of Limitation Act, plaintiff must apply for bringing legal heirs of deceased plaintiff No. 2 within 90 days from date of death. Along-with list Exh. 114, death certificate is filed. It appears that plaintiff No. 2 Smt. Daulatbi is died on 27.07.2024 and present application is filed on 13.10.2025 i.e. after 90 days from date of death of Daulatbi.

06. However, as per Order XXII Rule 6 of Code of Civil Procedure, there shall be no abatement by reason of the death of either party between the conclusion of the hearing and the pronouncing of the judgment. In this case, legal heirs of deceased plaintiff No. 2 are already on record and for that reason also, suit is not abated. Considering the relationship between parties, plaintiff has to apply for amendment at the earliest time. Suit is of the year 2016. It is necessary to expedient the trial.

07. Present application is filed as per provision of Order VI Rule 17 of Code of Civil Procedure. Plaintiff is not bringing the legal heirs of deceased plaintiff No. 2 on record, but he is just making the amendment that name of plaintiff No. 2 may be deleted. Therefore, amendment appears to be formal in nature and it will not change the nature of the suit. By allowing the amendment, no prejudice will be caused to other side. Hence, I pass the following order -

ORDER

- (1) Application (Exh. 115) is allowed.
- (2) Plaintiffs are directed to carry out necessary amendment in the plaint and to file copy of amended plaint on or before next date.
- (3) No order as to costs.

Ichalkaranji
Date : 13.10.2025

(Akshay R. Kulkarni)
4th Jt. Civil Judge, Junior Division
Ichalkaranji

Certificate

I affirm that the contents of the P.D.F. file judgment are same, word to word, as per the original judgment.

Name of Stenographer	Abhijit A. Kadam
Name of Court	Akshay. R. Kulkarni 4 th Jt. C. J. J. D. & J. M. F. C. Ichalkaranji.
Date of Decision	13.10.2025
Order signed by the P.O. on	13.10.2025
Order uploaded on	13.10.2025