



Dhondiram Jadhav V/s. Sakharam Khobare and Ors.
Order passed below Exh.No.101

Fundamentally, this is a suit for Specific Performance of Contract. By filing present Appln., the Plff. prays permission to brought on record the LR's of Deft.No.1-A who is also arraigned as Deft.No.2 Indubai Ramchandra Khobare, who died on 22/05/2023. (Present Appln.is filed on 13/07/2023 under Order XXII Rule 4 of the CPC.)

2. The opposite side file their written Say Exh.No.102 and resisted the Appln. Heard both the sides, at length.

3. Rule 10(A) of Order 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. 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. On the face of record it appears that Application is filed well within the limitation.

4. It is rule of the law that, no abatement by party's death if right to sue survives. Hence, the order :

ORDER

- (i) Application No.101 is allowed.
- (ii) Legal heirs as mentioned in the Application be incorporated.
- (iii) The Plff/s to place on record the amended plaint.
- (iv) It will be open to the newly impleaded Deft/s to raise genuine question as regards the representatives character, if any. In such exigency, it will be decided on its own merit.

(Ganesh A. Ghule)
3rd Jt. Civil Judge, Jr.Divn.,
Ichalkaranji.
Dist.Kolhapur.
J.O.Code : 2594

Date : 22/08/2023.

I affirm that the contents of this P.D.F. file Judgment/ Orders are same, word to word, as per the original Judgment / Order.

Name of stenographer	Shri. Sanket Sanjay Bhopale
Name of Court	Shri. G. A. Ghule 3 rd Jt. Civil Judge Jr. Div., & Judicial Magistrate First Class , Ichalkaranji.
Date of Dictation	22/08/2023.
Order signed by P.O. on	22/08/2023.
Order uploaded on	22/08/2023.