



ORDER PASSED BELOW EXH.58
IN SPECIAL CIVIL SUIT NO.02/2013

[CNR No.MHKO090000192013]

The present application is filed under Order 22 Rule IV of the Civil Procedure Code for bringing legal heirs of defendant no.1 Subhadra, on record.

2. Perused the application and say filed thereon. It is submitted by plaintiff that defendant no.1 died on 02.05.2018. The cause of action survives against the LRs of defendant no.1. So it is necessary to bring the LRs (nos.1/A to 1/E) of defendant no.1 on record. L.R.Nos.1/D & 1/E are already present in the suit as plaintiff no.5 and defendant no.3 respectively. Therefore, plaintiff be permitted to bring on record the LR Nos.1/A to 1/C as LRs of deceased defendant no.1.

3. The present application is strongly opposed by the defendants. The defendant no.2 contended that defendant no.1 died in the year 2018 and the present application is submitted on 20.09.2022. Hence, there is delay of 4 years. So also, there is some over-writing on the date of death by applying whitener. Hence, the application be rejected and if allowed, the cost of Rs.5000/- be imposed on plaintiffs.

4. Heard both the sides. I have gone through the record of the proceeding. As per order passed below Exh.56 dated 25.06.2024, the delay for bringing the LRs on record is condoned and abatement is set-aside. It appears that there is already L.R.No.1/D & 1/E of defendant no.1 on record as plaintiff no.5 and defendant no.3 respectively. However, considering the reason mentioned in the application and to decide the real controversy between the parties, it is necessary to bring rest of legal heirs of defendant no.1 on record. Hence, I pass the following order :-

ORDER

- 1] The application is allowed.
- 2] The plaintiff is permitted to bring LRs of defendant no.1 on record, as shown in the application.
- 3] The aforesaid amendment shall be carried out within 14 days from the date of this order. Similarly, the amended plaint alongwith copies shall be filed within the same period for issuing summons to the legal representatives.

Place : Gadhinglaj.
Date : 28.01.2025.

(N. S. Puri)
Civil Judge Senior Division,
Gadhinglaj