

MHKO090002542013



ORDER PASSED BELOW EXH.112
Regular Civil Suit No 59 of 2013

Order

1. The plaintiff has filed an application informing the court that defendant no. 9 and defendant no. 14 have passed away, and their legal representatives—defendant no. 10 and defendant no. 15 to 18—are already on record. Therefore, the plaintiff requests that the names of defendant no. 9 and 14 be deleted from the record as deceased.

2. The defendant opposes the application, arguing that the plaintiff has not filed a separate application for condonation of delay in bringing the legal representatives on record. Hence, the application is liable to be rejected.

3. In response, the plaintiff cites the case laws of *Keshav Bajaj vs Mohan Bajaj, 1992 BCJ 710*, and *Mahabir Prasad vs Jage Ram, AIR 1971 Supreme Court 742*, wherein it was held that if the legal heirs are already on record in a different capacity, the suit will not abate, even if no formal application to bring the heirs on record is filed.

4. The primary issue is whether the suit abates due to the failure to file a separate application for bringing the legal representatives on record. The plaintiff has demonstrated that the

legal representatives of deceased defendant no. 9 and 14 are already on record in their capacities as defendant no. 10 and defendant no. 15 to 18. In the cases cited supra it has established that when legal representatives are already on record, the suit does not abate, even if no formal application is filed for substitution of heirs. Furthermore, the delay in filing an application for substitution becomes irrelevant when the legal representatives are already parties to the suit.

Order:

1. The application is allowed.
2. The names of defendant no. 9 and defendant no. 14 shall be deleted from the record, as their legal representatives are already on record.

Place : Gadhinglaj.
Date : 20.09.2024.

(N. S. Puri)
Civil Judge Sr.Dn., Gadhinglaj