



ORDER PASSED BELOW EXH.134
IN REGULAR CIVIL SUIT NO.59/2013

[CNR No.MHKO090002542013]

The plaintiff has filed an application informing the Court that plaintiff no.1 has passed away, and his legal representatives are already on record. Therefore, the plaintiff requests that the name of plaintiff no.1 be deleted from the record as deceased.

2. The defendant filed his say and submitted that necessary order be passed.

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 plaintiff no.1 are already on record in their capacities. 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. Accordingly, I pass the following order:

ORDER

- 1] The application is allowed.
- 2] The name of plaintiff no.1 shall be deleted from the record, as their legal representatives are already on record.

Place : Gadhinglaj.
Date : 17.01.2025.

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