

ORDER PASSED BELOW EXHIBIT NO.32
IN R.C.S. NO.59/2018

01. The plaintiffs have filed instant application under Order XXII Rule 4 of the Code of Civil Procedure, 1908 for bringing legal representatives of the deceased defendant No.4 on record.

02. The plaintiffs have contended that the deceased defendant No.5 is died on 15.03.2009 and there are three legal representatives of the deceased defendant No.5, which are mentioned in the instant application. The instant application is supported by an affidavit.

03. The defendants have strongly objected the instant application by filing their say on the ground that the instant application does not support any documentary evidence. They have also contended that the plaintiffs have well aware about the death of defendant No. 5 and legal heirs of him. It is also contended that plaintiffs have deliberately made defendant No. 4 as party to the suit. Thus, ultimately they have prayed for rejection of instant application and also alternately prayed for grant of application with cost of Rs.10,000/-.

04. I have heard the learned advocates for the respective parties at length.

05. The plaintiffs have contended that the deceased defendant No.5 is died on 15.03.2009 that too before institution of this suit. However, they have unaware about the death of the defendant No. 5 at the time of institution of the suit and

inadvertently they have make defendant No. 5 as party to the suit. It is also contended that plaintiffs have instituted suit as per 7x12 extract of the suit property. The plaintiffs have also produced death certificate of deceased defendant No.5 on record below Exhibit 34/4, which shows that he died on 15.03.2009. The instant application is filed on 14.06.2018. Thus, the instant application is filed after knowledge of death of the defendant No.5. Therefore, the question of procedural delay does not survive. In such circumstances, for the proper adjudication of the matter, the plaintiffs are required to be permitted to bring the legal representatives of the deceased defendant No.5 on record. Hence, I proceed to pass the following order.

-: ORDER :-

- 1) Application Exhibit No.32 is allowed and plaintiffs are permitted to bring the legal representatives of deceased defendant No.5 on record.
- 2) The plaintiffs shall carry out the necessary amendment in the plaint within the period of 14 days from today and shall supply the amended copy of the plaint.

Date. 19.07.2018.

Sd/-
(S.M.Jadhav),
2nd Jt. Civil Judge, Junior Division,
Peth-Vadgaon.

CERTIFICATE.

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

Name of the Stenographer	Mrs. Rajashri Rajendra Sawant (L.G.)
Name of Court	Shri. S.M.Jadhav, 2 nd Jt. C.J.J.D. and J.M.F.C., Peth Vadgaon
Date of Dictation	19.07.2018.
Judgment signed by the P.O. on	19.07.2018.
Judgment/Order uploaded on	30.07.2018.