

MHKO130002632001



**COMMON ORDER BELOW EXH. 93, 94 and 91**  
**IN R.C.S. NO. 67/2001.**

These are the applications respectively for bringing the legal representative of defendants, condonation of delay and setting aside abatement.

02. It is submitted by plaintiff that defendant No. 7 and 8 died on 18/08/2001 and 29/08/2007 respectively, whereas, defendant No. 22 and 14 died on 10/08/2003 and 14/04/2000 respectively. The plaintiff got knowledge about their death upon the bailiff report dtd. 04/09/2015. His act is not intentional. Hence, he filed present applications.

03. Per contra, the LR's of deceased defendant No. 14 and 22 filed their say and objected the application. They submitted that the plaintiff is residing adjacent to deceased defendants and therefore, he has knowledge about their death. Only to prolong the matter, the plaintiff has not taken further steps. The plaintiff has taken undue advantage of temporary injunction order passed in favour of him. If application is allowed, cost of Rs. 3000/- be imposed upon plaintiff.

04. Heirs of defendant No.8 i.e. 8-A and 8-B appeared before the Court, but they have not filed their say.

05. The notice of this application duly served to proposed LR's Nos. 1-C, 1-D, 1-E vide Exh. 11 and 12, but they failed to file their say. Hence, this application is proceeded to decide on merit without their say.

06. Perused the applications and say filed thereon. Heard learned Advocate for the plaintiffs and proposed LR's Nos. 1-A and 1-B. Studied Order 22 of CPC. At the time of deciding applications in respect of bringing the LR's of deceased defendant, as per Order 22 Rule 4 of C.P.C., it is necessarily to see whether cause of action survive with the LR's or not. This is a simplicitor suit for injunction. The cause of action in the plaint is mentioned only against the deceased defendants. The said cause is personal cause against deceased defendant. There are no allegations against the LR's of deceased defendant Nos. 7, 8, 14 and 22. Therefore, the cause of action in the present suit of simplicitor injunction is not seen survive against the LR's of deceased defendant. The same fact admitted by the plaintiffs and they requested vide purshis Exh. 105 to dispose of these applications by passing necessary orders. Therefore, the applications are liable to be rejected. Hence, following order is passed.

**ORDER**

1. The applications Exh. 93, 94 and 91 are rejected.
2. No order as to costs.

Date: 01/11/2019.

(V. H. Khedkar)  
Jt. C.J.J.D., Kagal.