

MHKO130003162008

RCS NO. 67/2008



Sou. Shalabai Dashrath Lohar & Ors.

Vs.

Shri Janaba Tukaram Sutar & Ors.

ORDER BELOW EXH. 214.

1] The plaintiffs have filed this application for setting aside the order of the abatement against the defendant no. 3.

2] Perused the application. Heard the learned advocate for the plaintiff. In spite of sufficient time & opportunity has been given to the proposed L.Rs. & defendant to file say, they failed to file say. Hence application is proceeded without say of the defendant & the proposed L.Rs. On perusal of record, it appears that the legal heirs of the defendant no. 3 was not brought on record within stipulated period. Plaintiffs have filed present suit for partition & declaration. Considering the reliefs sought and the nature of suit, legal heirs of defendant no. 3 is necessary to be bring on record for proper adjudication and for just decision of the suit. Considering the record, names of legal heirs should be taken on record so as to provide an opportunity during the proceeding as the right to sue is survived. The application has been duly supported by an affidavit. No reason to disbelieve the ground. Hence I proceed to pass the following order:-

ORDER

1. The application is allowed.
2. The order of abatement against defendant no. 3 is set aside subject to costs of Rs.1000/- [Rs. One Thousand only] which is payable to the defendants.

Kagal.

Date:- 05/07/2025

(**Pranita S. Patil**)

Jt. Civil Judge J.D. Kagal.