

MHKO140000011981	R.C.S. No.34/1981
	laxman Gawada
	Vs.
	Babu Gawada

ORDER BELOW EXHIBIT 367

(Passed on - 11/11/2024)

1. The present application is filed by legal representatives of deceased plaintiff no.1/5 for bringing them on record as party.
2. It is contended that, the present suit is filed for Partition, declaration and injunction. The plaintiff no.1/5 is died on 28.04.2024. The legal representatives of deceased plaintiff are- 1/5(A) Pandit Tukaram Jadhav. They are only legal heirs of deceased and needs to be brought on record. Hence, present application.
3. The ld. advocate for defendants filed say and strongly opposed the application. It is submitted that, the contents are false. The proposed plaintiff is not only legal heirs of the deceased. The plaintiff has suppressed the fact of other legal heirs. No proper procedure is followed by the proposed plaintiff in filing the present application. On these grounds, the application is liable to be rejected.
4. Perused the record. Read the application, and documents. Heard the learned advocate for the plaintiffs. Other side remained absent and failed to conduct the argument inspite of sufficient opportunity.

REASONS

5. The present application is supported by an affidavit. However, it appears that plaintiff no.1/5 is died on 28.04.2024. It appears that the application is filed within limitation. The defendants submitted that, other Lrs are not added as party. But they have not mentioned details about the other Lrs of the deceased plaintiff no.1/5. The defendants in their common say at exhibit 373, they have mentioned about the other hers of deceased plaintiff no.1/6 and not about plaintiff no.1/5. Hence no inference can be drawn about that the plaintiffs have not added all the other legal heirs.
6. It appears from the record that, the present suit is filed for the Partition and injunction. Considering the nature of suit, the rights in respect of immovable property is going to be decided in the present suit. The right to sue survives. Therefore, It is necessary to are the legal representatives of the deceased on record. Hence, In order to avoid multiplicity of litigation at this stage, it would be proper to add legal representative of deceased as party to the suit. If they are added as party then no prejudice will be caused to other side. On the contrary it would help in deciding the suit on merit. Thus I pass following order.

ORDER

The application is allowed.

The legal representatives of deceased plaintiff no.1/5 namely Pandit Tukaram Jadhav, be brought on record as plaintiffs.

The plaintiffs to carry out amendment in the plaint on or before next date.

Date-11/11/2024
Chandgad.

(Waman D Jadhav)
Jt. Civil Judge Junior Division Chandgad