

**ORDER BELOW EXH. 124 IN R.C.S. NO. 08/2008**

Krupa Maruti Hallikar Vs. Benjamin Tatoba Dhupdale, etc.

This is a suit for partition, possession and perpetual injunction. By this application, the plaintiff prayed to grant him permission to bring L.Rs. of deceased defendant No. 6. In the application it is contended that, defendant No. 6 died on 03/04/2017 living behind the legal representatives whose names are mentioned in para No. 1 of the application and except them none is legal heir of the deceased. According to the plaintiff, delay caused in filing application for setting aside of deemed abatement order, is already condoned and abatement order is also set aside. Thus, the plaintiff sought permission to bring L.Rs. of deceased defendant No. on record. Application is supported with affidavit of the plaintiff.

2. The application is orally opposed and contested by the defendant No. 1. The defendant No. 1 has contended that, there is abnormal and inordinate delay in filing this application and in bringing L.Rs. of deceased No. 6 on record the reasons mentioned in the application are not true and satisfactory and not supported with any document. Thus, he prayed to reject the application. Despite opportunity was granted, the remaining defendants failed to file their say to the application. Hence, hearing of the application proceeded in absence of their say.

3. Heard, Shri. R.P. Bandivdekar, the Id. Advocate for the plaintiff and Shri. V.B. Kadukar, the Id. Advocate for the defendant No. 1.

4. It is a matter of record that, defendant No. 6 died on 03/04/2017 and said fact is not denied by the defendant No.1. As regards name of the proposed L.R. of deceased defendant No. 6, the defendant No. 1 has no objection. Considering the nature of the suit presence of L.Rs. of deceased defendant No. 6 is necessary. There would be no hardship to the

defendants if the application is allowed. On the contrary, if the application is not allowed, there would be loss to the plaintiff. Thus, the application deserves to be allowed. Hence, following order.

ORDER

The application below Exh. 124 is allowed.

The plaintiff is permitted to bring L.R. of deceased defendant No. 6 on record whose name is mentioned in para No. 1 of the application.

The plaintiff to carry out necessary amendment in the plaint title within 14 days for passing of this order and also to file amended copy of the plaint along with copies thereof to supply them to all the defendants on record and also to file a copy of the amended plaint for preparation of decree.

Parties to note.

Date : 15.10.2019.

(Amrit C. Birajdar)
Civil Judge, Jr.Dn., Chandgad.

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	Shri. V.G. Kamble, L. G. Stenographer.
Name of Court	Shri. A. C. Birajdar, Civil Judge, Junior Division and Judicial Magistrate, First Class, Chandgad.
Date of Dictation	15/10/2019
order signed by the P. O. on	15/10/2019
order uploaded on	16/10/2019