

**ORDER BELOW EXH. 69 IN R.C.S. NO. 28/2005**

Sajubai Shankar Phatak, etc.. Vs. Gundu Dadu Phatak, etc.

This is a suit for partition and separate possession. By this application filed at Exh. 69, vide Order XXII, Rule 4, plaintiffs have prayed to bring L.Rs. of deceased defendant No. 1 namely, Gundu Dadu Phatak. In the application it is contended that, defendant No. 1 has died on 30/03/2021 leaving behind his legal heirs whose names are mentioned in para No. 1 of the application. According to the plaintiffs, now the application is filed within stipulated time for bringing L.Rs. on record. Thus, plaintiffs sought permission to bring L.Rs. of deceased defendant No. 1 on record. Application is supported with affidavit of plaintiff.

2. Defendants have filed their say behind the application and submitted that, necessary order may be passed.

3. Heard, Shri. R.P. Bandivadekar, the ld. Advocate for the plaintiffs and Shri. V.R. Patil, the ld. Advocate for the defendants.

4. It is a matter of record that, defendant No. 1 died on 30/03/2021. Considering the nature of the suit, the right to suit survives to L.Rs. of the deceased defendant No. 1 and therefore, they are required to be brought on record. 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 plaintiffs. Thus, the application deserves to be allowed. Hence, following order.

ORDER

Application at Exh. 69 is allowed.

The plaintiffs are permitted to bring L.Rs. of deceased defendant No. 1 on record whose names are mentioned in para No. 1 of the application.

The plaintiffs 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 : 25/03/2022

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