


MHKO140002442019 	<b>Regular Civil Suit No.69/2019</b> <b>Khatalahmed Ali Mulla</b> <b>Vs.</b> <b>Allbaksha Sikandar Mulla</b>
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**ORDER BELOW EXHIBIT- 28**

**(Passed on- 11/09/2025)**

1. The present application is filed by plaintiff for bringing the legal representatives of the deceased defendant no.4.
2. It is contended that, the plaintiffs have filed present suit for partition, separate possession and perpetual injunction. During pendency of the suit, the defendant no.4 Kashim Appa Mulla is died on 13/10/2022. The legal representatives of deceased defendant no.4 are- 4/1) Khalid Kashim Mulla, 4/2) Shakil Kashim Mulla, 4/3) Imran Kashim Mulla, 4/4) Javed Kashim Mulla, 4/5) Najmin W/o. Salim Sarakwas. They are the only legal heirs of deceased defendant no.4. The right to sue survives. They have to be added as party to the present suit. Hence, present application.
3. The ld. advocate for defendants filed say and opposed the application.
4. Perused the record. Read the application, and documents. Heard the learned advocate for the both side.

**REASONS**

5. Perused the record. It is seen that the the plaintiffs have filed present suit for partition, separate possession and perpetual injunction. There is no dispute that the defendant no.3, 4 & 14 are

died in the year, 2022. The delay is condoned vide order below Exh.27. However, record shows that, the trial is not yet commenced. The material rights as to immovable property are going to be decided in the present matter. The suit is for partition and hence the shares of all the parties having interest are going to be decided. Hence, all the necessary parties have to be brought on record. So in order to decide the issue conclusively it would be proper to allow all the necessary party to take part in the matter and to proceed legal heirs.

6. It will help in avoiding the multiplicity and further complication. The shares of both side including legal representatives of deceased, if any are going to be decided the present. Hence, I am of the view that right to sue survives and legal representative of deceased plaintiffs are necessary party. No prejudice will be caused other side. On the contrary it would help in deciding the suit on merit. Hence, it would be proper to allow the application. Thus, I pass following order.

**ORDER**

1. The application is allowed.
2. The legal representatives of deceased defendant no.4 as mentioned in the application be brought on record.
3. The plaintiff to carry out amendment on or before next date.
4. Issue suit summons against the legal representatives.

Date-11/09/2025  
Chandgad.

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