

MHKO150000442008



R.C.S.No. 44/2008
Housabai vs. Dnyanoba

Order passed below Exh. 213

This is an application filed by defendant No. 4 for permission for filing additional written statement.

2. According to defendant no. 4, defendant no. 1 Dnyanoba Balaku Tejam died on 05.04.2021. The Dnyanoba Tejam has executed one will deed in favour of defendant no. 4. The defendant no. 4 has received property as independent right as per will deed of Dnyanoba Balaku Tejam. The Dnyanoba Balaku Tejam died during pendency of present suit. Therefore, for pleading in respect of independent right of defendant no. 4, she has wanted to file additional written statement to the suit. Therefore, defendant no. 4 prayed for permission for filing additional written statement. She lastly prayed for allowing application.

3. The plaintiffs have filed their say at Exh. 214. They denied all allegation, pleading and prayer of defendant. According to them, previously defendant no. 4 has filed written statement. The defendant no. 4 has not pleaded about the will deed in that written statement. The application is not maintainable. They lastly prayed for rejection of application.

4. Heard learned Advocate Shri. S. R. Powar for defendant no. 4 and Shri. A. S. Farakte for plaintiff.

5. Perused application, say and record.

6. On perusing affidavit of defendant no. 4, it appears that, the defendant no. 4 wanted to file additional w.s. in respect of registered will deed which was executed by defendant no. 1. The defendant no. 1 died on 05.04.2021. The defendant no. 4 filed w.s. previously. It is pertinent to note that, defendant no. 1 died on 05.04.2021. It means, by way of will deed, defendant no. 4 has received independent right after demise of Dnyanoba that is after 05.04.2021. It means, defendant no. 1 claimed her independent right after 05.04.2021. The defendant no. 4 wanted to file additional written statement in respect of her independent right in respect of will deed of defendant no. 1.

7. The defendant no. 4 claimed right by will deed which was come in to force after demise of defendant no. 1 that is on 05.04.2021. If the permission not granted, then irreparable loss caused to the defendant no. 4. If permission granted, then no irreparable loss or harmful caused to the plaintiff. The defendant no. 4 wanted to plead her independent right which was received by her as per registered will deed. Therefore, in my view permission needs to be granted to defendant no. 4 to file additional written statement.

8. Considering all above discussion, I am coming to conclusion that, the permission needs to be granted. The application needs to be allowed. Hence, I pass the following order,

ORDER

1. The application is allowed.
2. Considering peculiar circumstances, there is no order as to cost.

Date : 22/03/2022.

(S. P. Jadhav)
Civil Judge J.D., Ajara.

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	Mrs. Y.S. Chavan
Name of Court	C.J.J.D. Ajara
Judgment / Order dictated on	22-03-2022
Judgment / Order typed on	22-03-2022
Judgment / Order signed by the P. O. on	22-03-2022
Judgment / Order uploaded on	23-03-2022