

MHKO170000511994



COMMON ORDER BELOW EXHS.112, 116 & 117

IN R.C.S. NO.45/1994.

(Ramchandra Tambvekar and Ors. Vs. Dattu Tambvekar and Ors.)

Perused the applications, reports of notices issued to the proposed legal representatives of deceased defendant no.3 (1) Suresh Tukaram Shelar and defendant no.9 (2) Ganpati Pandurang Shelar (Tambvekar). Heard ld. advocate for plaintiffs.

2] By these applications, plaintiffs have prayed for permission for bringing on record legal representatives of deceased defendant no.3 (1) Suresh Tukaram Shelar and defendant no.9 (2) Ganpati Pandurang Shelar (Tambvekar) by condonation of delay and setting aside abatement order. As per the applications, plaintiffs have filed this suit for partition and defendant no.3 (1) Suresh Tukaram Shelar has died on 01/02/2017 and defendant no.9 (2) Ganpati Pandurang Shelar (Tambvekar) has died on 25/03/2018 leaving behind them, legal representatives as mentioned in these applications and there is delay of one year one month and 84 days respectively for bringing on the legal representatives of deceased defendant no.3 (1) Suresh Tukaram Shelar and defendant no.9 (2) Ganpati Pandurang Shelar (Tambvekar). Defendants have not intimated the facts regarding

death of these defendants and defendant no.9 (2) was not remaining present in the court. Plaintiffs came to know about the death of defendant no.3 (1) on 14/12/2017 and so thereafter they have filed these applications for condonation of delay and setting aside abatement order and permission for bringing on record legal representatives of deceased defendant no.3 (1) and defendant no.9 (2). After filing of this application, notices of these applications were issued to proposed legal representatives of defendant no.3 (1) and 9 (2). The said notices are served on the legal representatives of these defendants vide report below Exh.113 and vide Exh.118, however, they have not appeared, not filed say to this application. So applications proceeded without say of proposed legal representatives.

3] In support of the applications, plaintiffs have filed on record death certificate of the defendant no.3 (1) and 9 (2) vide Exhs.127 and 128, which supports the death of defendant nos.3 (1) and 9 (2) on 01/02/2017 and 25/03/2018. Further, in spite of opportunities given to the legal representatives of defendant nos.3 (1) and 9 (2), but they have not appeared and not filed their say. So also the other defendants have also not opposed these applications by filing say. So considering the reasons mentioned in these applications, supported by affidavits and nature of dispute between the parties, an opportunity of bringing on record legal representatives of deceased defendant nos.3 (1) and 9 (2), are necessary. At the same time, plaintiffs are liable to pay costs for the said delay made by them. Hence, I proceed to pass the following order;

:- ORDER :-

1. Applications vide Exhs.112, 116 and 117 are hereby allowed subject to the costs of Rs.700/- (Rupees seven hundred only) and Rs.1,000/- (Rupees one thousand only) payable to District Legal Services Authority, Kolhapur.
2. Plaintiffs to bring on record the legal representatives of the deceased defendant no.3 (1) Suresh Tukaram Shelar and defendant no.9 (2) Ganpati Pandurang Shelar (Tambvekar) as mentioned in these applications and carry out necessary amendment in the plaint within 14 days and file on record copy of amended plaint, without fail.

Sd/-

(V.A.Awaghade)

Jt. Civil Judge Junior Division,
Panhala

Date :- 24-01-2019

:- CERTIFICATE :-

I affirm that the contents of the P.D.F. file order are same, word to word, as per the original Order.

Name of the Stenographer	Shri. A.A.Patil
Name of Court	Shri. V.A.Awaghade
Date of Dictation	24-01-2019
Order signed by the P.O. on	31-01-2019
Order uploaded on	31-01-2019