



**ORDER BELOW EXH. 31**

1) Applicants filed present application as per Order XXII Rule 4 of Code of Civil Procedure, 1908 for taking them on record in place of deceased plaintiff. They also prayed to set aside abatement of suit which occurred due to death of plaintiff.

2) The applicants namely (1)Pratibha Prabhakar Sawant, (2)Anita Arun Patil and (3)Prakash Vithoba Sawant prayed to take them on record in place of deceased plaintiff namely Rukmini Vithoba Sawant as her legal representatives by setting aside abatement. The applicants have filed present applications through advocate for plaintiff. Application is supported by affidavit.

3) It is submitted by way of present application that, plaintiff expired on 27/11/2018. The proposed legal representatives of above deceased plaintiff are necessary parties in the present suit after her death as right to sue survived upon them. If they are substituted in place of deceased plaintiff, present suit will be decided in merits. The advocate for the applicant reiterated contents of application

at the time of argument. On the above grounds, applicants prayed to substitute them in place of deceased plaintiff.

4) Defendants filed say on the overleaf of present application an submitted that, the applicants are nowhere concerned with the suit property. On the above reason, defendants prayed to reject the application.

5) Perused the application, say, documents and heard both the advocates. Perused the certificate filed below Exh.32/1. On perusal of above certificates it transpires that plaintiff expired on 27/11/2018. It is worth to note that, present suit is filed for permanent injunction. According to me, considering the nature of the suit, the right to sue has been survived upon the present applicants being legal representatives of deceased plaintiff. As the applicants are ready and willing to conduct the case, in such circumstances, if they are substituted in place of deceased plaintiff, no harm will cause to defendants. On the contrary, if the applicants are not substituted, their will be multiplicity of litigation. Therefore, it will be just, legal and proper to substitute applicants in place of deceased plaintiff.

6) Consequently, for the aforesaid reasons, I proceed to pass the following order:

**ORDER**

1	Application is allowed
2	Abatement of the suit against deceased plaintiff is set-aside.
3	Applicants (1)Pratibha Prabhakar Sawant, (2)Anita Arun Patil and (3)Prakash Vithoba Sawant be substituted in place of deceased plaintiff being her legal representatives as plaintiffs in title of the plaint.
4	Advocate for applicants to comply the order within 7 days from the date of this order.
5	Cost in cause.
6	Application is disposed off accordingly.

Place : Radhanagari.  
Date : 11/02/2022.

( S. K. Shaikh )  
Civil Judge Junior Division,  
Radhanagari.