

MHKO190007082016



COMMON ORDER PASSED BELOW

EXH.34 AND 35

IN

R.C.S No.146/2016

Rajaram Ramchandra Patil etc.6 Vs. Shri.Shivaji

Vishnu Patil etc.5

(Date:17/01/2024)

1. Perused the applications. It appears that application below Exh.34 is filed for condonation of delay and application below Exh.35 is filed for granting permission to bring L.Rs of plaintiff No.6 (mistakenly mentioned as defendant No.6) on record.
2. Defendants have filed their say below these applications and prayed for rejection of applications.
3. Heard the both the sides.
4. Perused the record. It appears that plaintiffs have filed the present suit for the relief of declaration and perpetual injunction. Plaintiff No.6 Vithal Ramchandra Patil has been died on 22/06/2022. Therefore, plaintiff No.5 has filed these applications for condonation of delay and for permission to bring L.Rs of deceased plaintiff No.6 (mistakenly mentioned as defendant No.6) on record. Considering the nature of the suit and reliefs claimed therein, it appears that right to sue survives in favour of L.Rs. of deceased plaintiff No.6.
5. In both applications the name of deceased is mentioned as Vithal Ramchandra Patil. On perusal of the plaint, it appears that the said Vithal Ramchandra Patil is plaintiff No.6. However, in both applications, it is mistakenly mentioned that defendant No.6 has been died. Both advocates fairly submitted that due to typographical error defendant No.6 is

mentioned in both applications instead of plaintiff No.6.

6. In order to decide the suit upon merits, it will be appropriate to allow both applications and grant permission to bring legal heirs of deceased plaintiff No.6 on record. For delay, costs of Rs.250/- is to be saddled upon plaintiffs. In the light of above discussion, I pass following order.

- ORDER -

1. Applications Exh.34 and 35 are hereby allowed and permission is granted to bring L.Rs of deceased plaintiff No.6 on record, subject to costs of Rs.250/- payable to defendants on or before next date.

2. Parties to comply accordingly.

Date:17/01/2024

Sd/-
(D. M. G. Malidwale)
Civil Judge Junior Division,
Radhanagari.