



**Order below Exh.125 in RCS No.261/2015**

[ Marutirao Vs. Vitthalrao and Ors. ]

1. Perused contents of application and say thereon. Perused record and proceedings. Heard the both sides.

2. The application discloses that, during the pendency of the present suit, defendant No.1/5 namely Rajpal Vitthalrao Dhobale expired. He expired on 24/12/2024. He has legal heirs viz. 1. Urmila Rajpal Dhobale, 2. Vikram Rajpal Dhobale, 3. Vijay Rajpal Dhobale and 4. Vasundara Giriraj Dhobale. Except the said legal heirs, deceased defendant No.1/5 has no other legal heirs. Therefore, the plaintiff lastly prayed to make parties to the aforesaid legal representatives of deceased defendant No.1/5. The present application is proceeded without say of defendant No.2. Remaining defendants contended to pass appropriate order being the suit is old one.

3. Death extract filed alongwith list vide Exh.124 reveals that, defendant No.1/5 namely Rajpal Vitthalrao Dhobale expired on 24/12/2024. Furthermore, the present application is filed alongwith affidavit vide Exh.126, whereby the plaintiff affirms that defendant No.1/5 namely Rajpal Vitthalrao Dhobale expired on 24/12/2024 and he has aforesaid legal heirs.

4. Averment in the plaint reveals the relationship between the plaintiff and father of deceased defendant No.1/5. It further reveals that, the plaintiff asked the defendants for handing over possession of the suit property to him. However, the defendant refused for doing so.

Lastly, the plaintiff sought for relief of declaration of his ownership to the suit property and recovery of possession of the same. The present defendants denied claim of the plaintiff and lastly contended to dismiss the suit. Considering the rival pleadings and claims, it makes clear that, the plaintiff has right to sue against the aforesaid legal representatives of deceased defendant No.1/5. In their absence, effective order cannot be passed. Furthermore, considering the material available on record and aforesaid facts, it makes clear that, making parties to the aforesaid legal representatives will also helpful to decide real controversies between the parties finally on merits and to avoid the multiplicity of the suits and proceedings. Undoubtedly, defendant No.1/5 expired on 24/12/2024 and the present application is filed on 11/02/2025. The proposed parties and the present defendants never raised any dispute with respect to the death and date of the death of defendant No.1/5.

5. Furthermore, whether the plaintiff will be entitled for the reliefs sought for or not will be decided after conclusion of trial and on merits. So also, the parties will have an opportunities to adduce their evidence and cross examine the witnesses. Therefore, no prejudice will cause to either aforesaid legal representatives or to the present defendants by adding the aforesaid legal representatives as a parties to the suit. Hence, in the interest of justice, I pass following order.

#### **ORDER**

Application vide Exh.125 is allowed, the plaintiff is permitted to add aforesaid legal representatives of deceased defendant No.1/5 namely Rajpal Vitthalrao Dhobale as a parties in the suit and accordingly amendment in title clause of the plaint.

Date :03/09/2025

(R.V. Pande)  
Civil Judge (Sr.Dn.),  
Nilanga, Dist. Latur.