

Regular Civil Suit No.05/2018
Jadishprasad V/s. Sanjep @
Sanjay Other 1

ORDER BELOW EXH. 34 and 36

1. The present suit is for perpetual injunction. The defendants have appeared and filed their written statement. The issues are framed. The matter was pending for the evidence of the plaintiff. On this background, on 09-08-2019 the learned advocate for defendant filed pursis vide Exh.33 and stated that, the defendant no.1 i.e. Sanjep@ Sanjay Rajasaheb Deshmukh has been died. Hence, by present applications plaintiff has prayed to condone the delay in taking the legal representatives on record and permission to bring the legal heirs on record.
2. On the other hand defendant filed his say below application and prayed to reject the application.
3. Read applications. Heard learned advocates for both side. As per certified copy of F.I.R. in crime no. 264/2019 it is evident that the defendant no.1 namely Sanjep @ Sanjay Rajahsaheb Deshmukh has been died on 04/06/2019. The death of defendant no.1 is admitted by the surviving defendant. The reason stated for delay that the plaintiff was out of station is justifiable. After, death of defendant no.1 the cause of action survives to his legal representatives. Court should be liberal in the matter of delay to bring legal representatives on record. Suit is required to be disposed of on merits. Hence, the order :

ORDER

1. Delay caused bringing legal representatives on record is hereby condoned.
2. Plaintiff to bring legal representatives of deceased defendant no.1 on record.
3. Plaintiff to carry out necessary amendment in the plaint and also furnish the copy of amended plaint on or before next date.

Date :- 27/04/2022

SD/-

(S.D.Yadav)

Jt. C.J.J.D. Renapur