

REGULAR CIVIL SUIT NO.186/2014.
Ramesh V/s. Sambha & Ors.

Order passed below Appln.Exhibit -65..

Basically, this is a suit for declaration and partition of the suit property.

(2) Deft.No.1 Sambha is no more. He was father in law of Plaintiff No.3. Now by filing present Application it is the Plff/s who seek permission to bring on record the LR's of deceased Deft.No.1.

(3) Rule 10(A) of Order XXII of the Code makes it incumbent on the part of the learned counsel appearing for a party to the suit to inform the court about the death of that party. In compliance thereof, Mr. Pandit, learned counsel informed to this court about the death of the Deft.No.1.By filing present application/s, he seeks leave of this court to implead Deft.Nos.1(a) to 1(d) in lieu of deceased Deft.No.1, being his LR's., by setting aside the abatement order.

(4) Mr. Bharati and Mr. Gore, learned counsel appearing for the Deft/s raised the question of tenability of the present application. They also argued on the point of delay. Also non having the heirship certificate in favour of the proposed defendants.

(5) It is law of land that, the death of a plaintiff or defendants shall not cause the suit to abate if the right to sue survives. The limitation for an application for the purpose of bringing on record the legal representatives of a deceased Plaintiff is under Art.120 of the Limitation Act, 1963, ninety days starting from the death of the party. Hence, following order :-

ORDER

- (i) Application is allowed.
- (ii) The Plaintiff/s are are permitted to implead Deft.Nos.1(a) to 1(d) in lieu of deceased Deft.No.1, being his LR's.in the array of the Defendants.
- (iii) The Plff/s to place on record the amended plaint.
- (iv) It will be open to the Deft/s to raise genuine question as regards the representatives character of impleaded Deft/s if any. In such exigency, it will be decided on its own merit.
- (v) Amendment to be carried out within 14 days.

(Ganesh A Ghule)
Joint Civil Judge, (Jr.Divn.)
Hadgon, Dist. Nanded.

Date: 12th February, 2019.

प्रमाणपत्र

मी अशी खात्री देतो की, सदर पी.डी.एफ. फाईलमधील मजकुर मुळ न्यायानिर्णयाप्रमाणे / आदेशाप्रमाणे प्रत्येक शब्द बरोबर आहेत.

लिपिकाचे नाव - श्री. गोवंदे.

न्यायालयाचे नाव - सह दिवाणी न्यायाधीश क.स्तर व न्यायदंडाधिकारी वर्ग १, हदगांव.

आदेश दिनांक : १२/०२/१९.

पिठासीन अधिका-यानी स्वाक्षरी केलेला दिनांक : १२/०२/१९.

आदेश/न्यायनिर्णय अपलोड केलेली तारीख : १२/०२/१९.