

**ORDER BELOW EXH. No.36 IN REG. CIVIL SUIT NO. 25/2019**

In the suit for partition and separate possession, the present application is filed by the plaintiff no.1 for deletion of name of the deceased defendant no.3 and for bringing on record legal heirs of the deceased plaintiff no.6. Advocate for defendant no.2 filed his say and resisted the application.

2. Heard both sides. Ld. Advocate for the plaintiff submitted that defendant no.3 Indumati Gangadhar Hire is died on 12/07/2022 at Mumbai leaving behind her legal heirs i.e. plaintiff no.1, 2 and defendant no.15. He further submitted that, the deceased plaintiff has no other legal heirs except plaintiff no.1, 2 and defendant no.15. Therefore, he prayed to delete the name of plaintiff no.3 from the suit. By this application he has also submitted that, defendant no.6 Jaywant Shankar Jadhav is died on 13/05/2024 and prayed for bringing on record following legal heirs of deceased defendant no.6:-

- 6-i. Abhishek Jaywant Jadhav
- 6-ii. Priyanka Suraj Thakare
- 6-iii. Pushpa Jaywant Jadhav.

3. Ld.Advocate for the defendant submitted that, defendant no.6 is died on 13/05/2024 and application is filed on 13/08/2024 which shows that there is 03 days delay to move the application. The suit is already abated against the defendant no.6. Hence, he prayed to reject the said application.

4. On Perusal of record it appears that, the legal heirs of deceased defendant no.6 Pushpa Jaywant Jadhav was already on

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record as defendant no.15. Therefore, defendant no.15 filed an application under O 23 R 1(A) for her substitution as plaintiff no.3. My Ld. Predecessor allowed this application below Exh.No.41 in the interest of the justice. Record further shows that, plaintiff moved an application to set aside abatement against defendant no.6 and my Ld. Predecessor allowed the application below Exh.No.43 on 19/10/2024 and thereby abatement was set aside. The present suit is for partition and separate possession. Therefore, after the demise of defendant no.6 right to sue survives. Therefore, the application deserves to be allowed. Hence, I pass following order :-

**ORDER**

- 1] The application Exh.No.36 is allowed.
- 2] The plaintiff is allowed to delete the name of plaintiff no.3 and substitute it with name of the defendant no.15 as plaintiff no.3.
- 3] The plaintiff is allowed to bring on record legal heirs of deceased defendant no.6 Jaywant Shankar Jadhav.
- 4] The plaintiff to carry-out necessary amendment accordingly and and produce the amended copy on record within 14 days and proceed further.
- 5] Cost in main cause.

Date :- 11/03/2025  
Place :- Pimpalgaon (B).

Sd/-xxx  
( V. W. Khendad)  
2<sup>nd</sup> Jt.Civil Judicial Junior Division  
Pimpalgaon (B)