

MHNS140001592017



**ORDER BELOW EXHIBIT 40 RCS NO.23/2017**

**Madhukar Kadam V/s Balkrushna Kadam and Others**

**(Passed on 18/04/2023)**

The Plaintiff has filed present application for bringing legal representatives of the deceased defendant no. 2 under Order XXII Rule 2 and amendment in the plaint in this regard under VI Rule 17 of the Code of Civil Procedure,1908.

2. It is submitted that the suit is filed for declaration. During the proceedings of the suit the Defendant no. 02 Nana Govind Kadam died on 14/10/2022. His legal representatives needs to be bring on record for the decide suit on merit. After his death the claim against him will survive with his legal representatives. Therefore, amendment regarding the name of the defendant no. 02 is necessary.

The plaintiff sought following kind of amendment.

“प्र.वादी नं २ नाना गोविंद कदम यांचे नावास कंस करुन त्यापुढे मयत ता.१४.१०.२०२२ असे नमुद करुन त्यापुढे त्यांचे वारसांची नावे

२अ.श्री. बाळु नाना कदम उ.व.५५, धंदा-शेती, रा. कोराटे, ता. दिंडोरी, जि. नाशिक

२ब.अलका शिवाजी जाधव, उ.व.४५, धंदा-घरकाम रा. प्रतिक बंगला, शांतीनगर, कृष्णाई अपार्टमेंट समोर, मखमलाबादरोड,पंचवटी नाशिक २

२ क. लता कचरु पडोळ, उ.व.४०, धंदा-घरकाम, रा.सुतळी कारखान्याजवळ, कोराटे रोड, ता. दिंडोरी, जि. नाशिक

२३ .मंगल तानाजी टर्ले उ.व.३५, धंदा-घरकाम रा. मधूबन कॉलनी, लोचन अपार्टमेंट,  
मखमलाबादनाका, नाशिक

The said amendment does not change the nature of the suit. Therefore, prayed for in the interest of justice allowed the present application

3. The defendants failed to file their say hence present application proceeded without their say.

4. On perusal of the record it appears that the suit bearing RCS No. 23/2017 is filed for declaration. During the proceedings of the case defendant no. 2 died on 14/10/2022. The plaintiff also filed on record the death certificate of the deceased defendant no.2 vide (Exh.39) which shows that the said defendant no.2 died on 14/10/2022. Moreover, perusal of the present application (Exh. 40), it depicts that the legal representatives of the deceased plaintiff mentioned in the application i.e.

Sr. no.	Name of the legal representatives	Age	Relation with the deceased
1	Shri. Madhukar Nana Kadam	63	Son
2	Shri. Kisan Nana Kadam	60	Son
3	Shri. Balu Nana Kadam	45	Son
4.	Sau.Alaka Shivaji Jadhav	45	Daughter
5.	Sau. Lata Kacharu Padol	40	Daughter
6.	Mangal Tanaji Tarle	35	Daughter

are the only legal heirs of the deceased defendant no. 2. The legal representatives of the deceased defendant no. 2 needs to be taken on record. Out of the above legal representatives the plaintiff i.e. Madhukar Nana Kadam and the defendant no. 3 are already on the record. Hence, it will be appropriate the remaining legal representatives of the said deceased defendant no. 2 be taken on record. The plaintiff filed present application on 18/11/2022 and the deceased defendant died on 14/10/2022, therefore the application is within the prescribed

period of limitation. Looking into the nature of the suit. It is necessary to bring legal representatives of the deceased defendant no. 02 on record to avoid further complications. So, in view of the above discussion, I pass the following order.

**ORDER**

1. The application is hereby allowed.
2. The plaintiff is hereby permitted to carried out amendment sought in para 1 of the present application.
3. Plaintiff to do necessary compliance within 14 days from this order.

Date : 18/04/2023

(Ashwini A.Pandit)  
2<sup>nd</sup> Joint Civil Judge Junior Division  
Dindori(MH03260)