

**RCS No.127/2019**  
**Kacharabai V/s. Chandrabhagabai**  
**MHNS230020562019**

**ORDER BELOW EXH.13**

The plaintiffs have filed this application under order 01 rule 10 of CPC.

**02** Read application and say. The plaintiff and their learned counsels are continuously absent and not argued on the application. Sufficient opportunity has been given.

**03** On perusal of application it appears that as the defendant no.01 has died and therefore they want to bring legal heirs of the deceased defendant no.01 on record. Therefore, they want to add Bharat Gajanan Porte in the matter and to delete name of the defendant no.01. It is also contended that the application that as per bailiff report defendant no.01 is dead. On perusal of bailiff report Exh.06 dated 23.09.2020, it appears that the defendant no.01 Chandrabhagabai is dead. The application has been filed on 25.02.2022. As the plaintiffs desires to bring legal heirs of deceased defendant on record, it is required to file application under order 22 rule 04 of CPC. However, the application is not under proper provision. Moreover, the application is required to be accompanied with application for setting aside abatement and for condonation of delay for setting aside abatement. However, in spite sufficient opportunity the plaintiffs have not appeared in the matter to argue the application. Moreover, the application is not under proper format and provision. It is not pleaded in the application that the proposed defendant is necessary party or as to why the plaintiffs wants to add him as defendant. Therefore, in view of above all discussion, I pass

the following order.

**ORDER**

The application is rejected.

Date :- 04.10.2022

(M. M. Alone)  
Civil Judge Junior Division,  
Igatpuri