

RCS No. 19/2012
Sayyed Ahmed Vs. Gangabai & others
Order below Exh. 184
CNR No. MHPA140000452012

1. Present application is filed by Syed Abbas Hussain S/o. Syed Ahmed Hussain and Syed Aadil Hussain S/o Syed Ahmed Hussain for taking them as legal representatives of the deceased of Syed Ahmed who died on 16.11.2017. The defendants have filed their detailed say and objected to the present application. They have further stated that, the deceased Syed Ahmed have seven legal heirs as mentioned in the say. The applicants have not mentioned all the legal heirs of the deceased. Hence, they further prayed to reject the present application.

2. I have heard learned advocates at the bar at length. I have also gone through the entire available documents on the record along with the following authorities cited by the applicants -

1) State of H.P. and others Vs. Annapurna Pathak & others, CMP No.329/2001 decided on 17.05.2007.

2) Indira Vinayak Sawant Vs. Vijayendra Umakant Sheti & others, WP No. 8/2004 decided on 23.08.2006.

3. The plaintiff No. 1 Syed Ahmed appears to have died on 16.11.2017. The applicants filed death certificate on the record. Present matter is for perpetual injunction for not obstructing or

interfering in the peaceful possession of the plaintiff. The definition of "Legal Representative" is given in Sec. 2(11) of the Code of Civil Procedure as below-

"Legal Representative" means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character the person on whom the estate devolves on the death of the party so suing or sued.

4. So also it is held in **State of H.P. and ors V/s Annapurna Pathak and Ors**, as cited supra, that, *"it does not mean that legal representatives alone are entitled to inherit entire subject matter of litigation-question of inheritance is not decided and it is only a question of representation of estate which is decided under order 22-person who represent estate acts on behalf of entire body of people who inherit estate his impleadment does not amount to decision that he is the sole owner"*

5. And in **Indira Vinayak Sawant V/s Vijayendra Umakant Shety and Ors**, it has been held that, *"the definition of 'Legal Representative' is inclusive in character -it includes heirs as well as persons representing estate of deceased even without title either as executor or as administrator in possession of estate of deceased"*.

6. Considering the ratio laid down in the authorities, cited supra and as per sec. 2(11) of the Code of Civil Procedure, it is very

clear that, any person even without title can represent the deceased as a “legal representative” in the matter.

7. As, the present matter is very old and for perpetual injunction, I do not find it proper to add all the names of the legal heirs of the deceased as and when the deceased is represented by the persons as mentioned in the present application. Considering all the above discussion, I proceed to pass following order -

ORDER

1. The application is allowed.
2. The plaintiff is directed to bring the above named legal heirs on record within 14 days from this date of order to proceed further with the matter.

Date : 16.11.2018

Sd/-
(Vishal V. Deshmukh)
Jt. Civil Judge (J.D.)
Purna