

Attaulla Ansari Vs. Maroti Borade & Ors.

ORDER BELOW EXH. 94.

The present application has been filed by advocate of the plaintiff by which it is submitted that, the plaintiff Attaulla s/o Ujmadtulla Ansari has died on 29.08.2024. He further submitted that, the plaintiff is survived by Faridabegum w/o Attaulla Ansari, Mohd. Asadulla s/o Attaulla Ansari, Mohd. Sanaulla s/o Attaulla Ansari, Mohad Rahmatulla Ansari, Anjum Parvin w/o Mohad Majid Ansari, Ansari Nayyar Anjum w/o Mudsir Ali as legal heirs. Therefore, he prayed that, the legal heirs of the deceased plaintiff be taken on record.

02. The application was strongly opposed by defendant by filling his say on the overleaf of the application. He submitted that, proper order may kindly be passed.

03. Perused the application and say. There is no dispute as to the fact that, the plaintiff died on 29.08.2024. It is settled law that, in case of suit for perpetual injunction, the cause of action is survived with the legal representatives of the deceased plaintiff. This is because, the relief of perpetual injunction is with respect to the possession of immovable property. After the death of plaintiff, certainly his legal heirs would be entitled to the possession of that immovable property. Therefore, those legal heirs have every right to proceed with the suit. In the light of above discussion, I proceed to pass following order.

ORDER

01. The application (Exh. 94) is allowed.

02. The legal heirs of plaintiff be taken on record and accordingly, the amendment be carried out in the plaint within two weeks.

CNR No.MHPA15000190-2013

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03. No order as to cost.

Date : 22.10.2024

(Mandar M. Raut)
Civil Judge Junior Division,
Sailu Dist. Parbhani.