

**ORDER BELOW EXH.39 IN R.C.S. No. 91/2023**

Namdev Khutwad Vs. Nathu Valhekar  
(Passed on 21/07/2025)

01. The plaintiff has filed the present suit for specific performance and permanent injunction, wherein Kashinath Baburao Lande was impleaded as defendant no. 6(d). However, it was later discovered that said defendant had expired on 07/12/2009, prior to the institution of the suit. The plaintiff states that he was unaware of this fact at the time of filing and learned of it only after the summons returned with a remark of the defendant being deceased. Therefore, the plaintiff seeks to delete the name of the deceased defendant from the plaint and substitute his legal heirs, namely Amol Kashinath Lande and Kiran Kashinath Lande, as defendant nos. 6(d)(1) and 6(d)(2). It is submitted that this amendment is necessary to proceed legally and properly with the suit and will not cause prejudice to the defendants. The amendment does not change the nature of the suit but merely corrects the record in light of subsequent facts. Hence, prayed to allow the application.

03. The defendants failed to file their say despite sufficient opportunity was given. Hence, the matter proceeded without their reply.

04. Heard, Ld. Adv. of plaintiff, perused the record.

05. On perusal of the application and the documents on record, it appears that the suit has been filed against a deceased

person, namely defendant no. 6(d), Kashinath Baburao Lande, who had expired prior to the institution of the suit. It is a settled position of law that no suit can be maintained against a dead person. Therefore, deletion of the deceased defendant and substitution of his legal heirs is necessary to continue with the proceedings. The proposed amendment does not change the nature or character of the suit and is essential for proper adjudication of the matter. In view of the above circumstances, and to avoid procedural irregularity and to advance the cause of justice, the present application deserves to be allowed with following order -

**ORDER**

- 1) Application below **Exh.39** is allowed subject to cost of Rs. 500/- to be paid to T.L.S.A. Bhor.
- 2) Plaintiff is permitted to delete the name of deceased defendant no. 6(d) Kashinath Baburao Lande.
- 3) Plaintiff is further permitted to implead Amol Kashinath Lande and Kiran Kashinath Lande as defendant nos. 6(d)(1) and 6(d)(2), respectively.
- 4) Necessary amendment be carried out in the plaint on or before the next date without fail.
- 5) Fresh notice be issued to the newly added defendants after amendment is carried out.

Pune.  
Date : 21-07-2025

[Smt.Meena W. Jadhav]  
Jt. Civil Judge, Jr.Div., Bhor

**CERTIFICATE**

I affirms that the contents of this P. D. F. file order are same word for word as per original order.

Name of the pt :- Hon'ble Smt. Meena W. Jadhav  
Court C.J.J.D. & J.M.F.C., Bhore, Pune

Name of the Steno :- M. S. Kondhare L.G.

Date of Order :- 21-07-2025

Signed by P.O. :- 21-07-2025

Order uploaded on :- 21-07-2025