

ORDER BELOW EXHIBIT NO.38

The plaintiffs have filed instant application under Order 1 Rule 10 of the Code of Civil Procedure, 1908, for deletion of name of defendant no. 8 from caption of the plaint and for bringing legal heirs of defendant no. 8 on record.

02. By this application, the plaintiffs have contended that, they have instituted present suit for possession and permanent injunction. Defendant no.8 Indubai Sopan Kumbhar passed away on 24/02/2010, however, name of deceased defendant no. 8 is still on 7/12 extract of suit property. Therefore, plaintiffs have impleaded defendant no. 8 as party to the suit. Defendant no. 8 has passed away before institution of present suit. Legal heirs of defendant no. 8 mentioned in para no. 2 of the application are necessary parties to present suit. Therefore, plaintiffs prayed for bringing legal heirs of defendant no. 8 on the record as mentioned in the application para no.2.

03. Despite of giving sufficient opportunity defendants have not filed say upon application. Heard Ld., advocate on behalf of both parties. Considering the contents of application it reveals that proposed legal heirs of defendant no.8 mentioned in para no.2 of the application are necessary parties to the suit. Defendant no. 8 passed away on 24/02/2010. Plaintiffs have filed death certificate of defendant no. 8 vide list at Ex. 41. Considering the contents of

plaint legal heirs of deceased defendant no. 8 are necessary parties to the suit therefore, it would be justifiable to allow the application and implead legal heirs of defendant no.8 in caption of the plaint. Hence, I pass the following order.

ORDER

1. Application Exhibit 38 is allowed.
2. The plaintiffs are permitted to implead proposed defendants mentioned in the present application and shall also carry out the proposed amendment within 14 days or on next date.
3. The plaintiffs shall also file appropriate amended copy of the plaint.
4. However, in the circumstances of the case there shall be no order as to costs.
5. Issue summons to proposed legal heirs of defendant no. 8.

Sd/-

(A.G.Kulkarni)

Place : Daund.

Date : 02/05/2024

4th Jt. Civil Judge, Jr.Division Daund
Tal.-Daund, Dist.-Pune.