

**ORDER**

Applicant has made the present application for seeking order for permission to bring legal heirs of deceased defendant no. 2 on the record. The order passed for abatement of suit against plaintiff's has been set aside vide order below Exh.51 and delay caused for filing application to take legal heirs on record is also condoned vide order on Exh. 53. Hence, the present application.

2. Perused the application and say. Heard both sides.

3. It is the contention of the applicant that, defendant no.2 Prabhu Bhiwa Thakar has passed away, however, the plaintiff's were unable to obtain name of LR's of defendant no.2 so delay is caused in bringing his LR's on record. Defendant no.2 is survived by Lrs. namely Dattatraya Prabhu Thakar, Saraswati Prabhu Thakar, Baydabai Balu Kokade and Bhausahab Prabhu Thakar of the deceased. The present suit is for specific performance and permanent injunction. Therefore, it is necessary to bring the LR's of deceased defendant no. 2 on record.

4. Having considered the submissions made on behalf of both the parties and on perusal of record it appears that, defendant no.2 passed away on 04/01/2019 leaving behind Lrs. namely Dattatraya Prabhu Thakar, Saraswati Prabhu Thakar, Baydabai Balu Kokade and Bhausahab Prabhu Thakar of the deceased. The delay caused in bringing the LR's of deceased defendant no.2 has been condoned vide order below Exh.53. The order of abatement of suit against defendant no.2 has been set aside vide order below Exh.51. The present suit is for specific performance and permanent injunction. Applicant submitted that, he was unknown regarding the death of defendant no. 2, therefore delay was caused to file application for taking Lrs. on record. It reveals

that the LR's of the deceased defendant no.2 is necessary party to the suit. Therefore, it is necessary to bring the LR's of deceased defendant no.2 on the record they being, necessary parties to the present suit. Hence, I proceed to pass the following order:

**ORDER**

1. Application Exh.55 is allowed.
2. The plaintiff is directed to bring the proposed LR's of deceased defendant no.2 on record within 14 days from the date of this order or on next date.
3. The plaintiff is directed to file amended copy of plaint within 14 days or on next date and serve the same to the defendants.
4. Issue notice with proposed L.R's of defendant no.2 of amendment plaint for filing written statement.
5. Parties to take note.

**Sd/-**

Place : Daund.  
Date : 09.01.2023

**(G.A.Kulkarni)**  
4<sup>th</sup> Jt. C.J.J.D., Daund  
Tq.-Daund, Dist.-Pune.