

Balu Baban Kale and Ors.

Vs

Sitaram Yashwant Thorat and Ors.

ORDER BELOW EXH. NO. 49

1. This is an application filed by the plaintiffs seeking permission to delete the name of deceased defendant Nos.1 and 3 on record.

2. Heard both sides. Considered their submissions.

3. The Ld. advocate for the plaintiffs submitted that the defendant No.1 namely Sitaram Yashwant Thorat died on 21/06/2022. He further submitted that his children namely Sharad Sitaram Thorat (Defendant No.2) and Kishor Sitaram Thorat (Defendant No.3) are already on record. He also submitted that defendant No.3 Kishor Sitaram Thorat was died unmarried on 23/02/2023. Therefore, he has no other legal heir then defendant No.2. Hence, he seek permission to delete the name of deceased defendant Nos.1 and 3.

4. The Ld. advocate for the defendant Nos.2 and 4 filed his say. He contended that plaintiffs have not filed application for taking legal heirs of deceased defendants within 90 days from the date of death. The plaintiffs have not filed delay applications for taking legal heirs on record and set aside abatement order. Hence, prayed to reject the application.

5. The present suit is filed for the declaration, injunction and specific performance. On perusal of the copy of death certificate of defendant Nos.1 and 3, it appears that they have died on 21/06/2022 and 20/02/2023 respectively. The defendant No.2 is the only legal heir of defendant No.1 as defendant No.3 died without leaving behind any legal

heir. The above-named legal heir being representative of deceased defendant Nos.1 and 3 is already on record. The plaintiffs have filed this application only for deletion of name of defendant Nos. 1 and 3. He does not brought any legal heir on record. Therefore, there is no question of filing application for setting aside abatement and delay condonation for bringing legal heirs on record.

6. The right to sue survives against the surviving defendants. Therefore, application deserves to be allowed. Hence, I pass following order.

O R D E R

- 1) The application at Exh.49 is allowed.
- 2) The plaintiffs are directed to carry out necessary amendment in the title clause of the plaint and file amended copy of plaint on or before next date.
- 3) Parties to note.

Date : 17/04/2025
Ghodegaon,

Sd/-
(Sneha Sunil Pulujkar)
Joint Civil Judge Junoir Divison,
Ghodegaon, Dist. Pune.

C E R T I F I C A T E

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

Name of the Court	: Smt. S. S. Pulunjkar, Joint C.J.J.D. and J.M.F.C., Ghodegaon, Dist. Pune.
Name of the Steno	: J. S. Kaite, Steno Grade - III.
Order / Judgment date	: 17/04/2025
Order / Judgment signed by P.O. on	: 17/04/2025
Order / Judgment uploaded on	: 17/04/2025