

Order below Exh. 42

The plaintiff has filed the application under Order XXII Rule 4-A of Code of Civil Procedure, 1908 praying either to proceed with the suit in absence of deceased defendant no. 13 or to appoint Court officer as representative of deceased defendant no. 13. Though sufficient opportunity is granted defendant failed to file say.

2. Heard Ld. Advocate K.M. Patil for plaintiff he submitted that defendant no. 13 reported as died. He have no legal heirs. Hence to proceed with the suit it is necessary that any officer of the Court be appoint as representative of deceased defendant no. 13 or to proceed with the suit in absence of deceased defendant no. 13. Hence he prayed to allow the application in the interest of justice.

3. Considering the submission and documents on record it seems that defendant no. 13 is reported as died vide exh. 12. According to the plaintiff deceased defendant no. 13 does not survived any legal heirs. I gone through the provisions of Order XXII Rule 4-A of Code of Civil Procedure, 1908. It gives discretion to the Court either to proceed any absence of the person representing the estate of deceased person or may appoint an officer of the Court to represent the estate of deceased person for the purpose of the suit.

4. As per the application description of any property belongs to deceased defendant no. 13 is not given. In such situation it is not necessary to appoint any person to represent deceased defendant no. 13.

CNR NO.MHRG08-000268-2014

R.C.S. No. 70/2014

Hence in the result I pass following Order -

ORDER

The application is allowed, the plaintiff is permitted to proceed with the suit in absence of person representing estate of deceased defendant no. 13.

Place :Khalapur,
Date : 05.01.2019

(Vishal S. Dhondage)
Jt. Civil Judge, J.D., Khalapur