



Nathuram Moru Mongare
Vs
Babibai Rambhau Patil and 6

Order below Exhibit No.30 in
Reg. Civil Suit No.60/2022

This is the application filed by plaintiff under Order 1, Rule 10 and Order VI, Rule 17 of C.P.C. for striking out name of defendant no.4 from the suit.

02. The plaintiff has contended that, the present suit is filed for specific performance and consequential relief of injunction. According to him, after institution of the suit, the defendant no.4 was expired on 13/03/2023. Her legal representatives are already on record as parties no.5 to 7 in the suit. Hence, he submitted that, there is no necessity to substitute the legal representatives of defendant no.4 on record. Thus he prayed to delete the name of defendant no.4 from the suit.

03. On the contrary the defendants opposed the instant application on the ground that, the same is filed after long delay. Hence, defendants prayed to reject the application.

04. I have heard the Ld. Advocates for both the parties.

05. The record indicates that, instant suit is filed for specific performance of contract. The death extract produced on record shows that, after institution of the suit defendant no.4 namely Tarabai Namdev Patil died on 13/03/2023. Record further discloses that, the legal representatives of deceased defendant no.4 is already on record as parties no.5 to 7 in the suit. The said aspect is not denied by the defendants. In such circumstances no further purpose is going to be

served by keeping name of deceased defendant no.4 on record.

06. According to defendants the plaintiff has filed the instant application after long delay. It is necessary to see as to when the plaintiff learnt about death of deceased defendant no.4. Record discloses that, the defendants filing pursis below Exh.29 have intimated death of defendant no.4 on 17/03/2023. However, since 17/03/2023 to till 10/10/2023 the plaintiff has not taken any steps against deceased defendant no.4. There is no any sufficient cause assigned in the application as to which thing prevented the plaintiff from taking steps against deceased defendant since 17/03/2023. The above facts clearly demonstrate that, there is negligence on the part of plaintiff in taking steps against deceased defendant no.4. But, just because delay on the part of the plaintiff, application can not be rejected. Thus, following order :-

:-ORDER:-

01)	Application (Exhibit No.30) is allowed subject to cost of Rs.500/- be given to the defendants.
02)	The plaintiff is allowed to delete the name of deceased defendant no.4 from the suit and he is directed to carry out the necessary amendment in plaint within 14 days.
03)	The plaintiff shall also file appropriate amended copies of the plaint.

(Dictated and pronounced in open Court)

Khalapur
Date :- 03/11/2023

Sd/-
(P.M.Mane)
Jt. Civil Judge, Junior Division,
Khalapur.