



R. C. S. No. 78/2018
Sujata Bhaskar Ghag Vs.
Dhaklya Parshuram Shid.
CNR No. MHRG090006462018

ORDER BELOW EXH. 23

1] Present application is filed by the legal representatives of deceased plaintiff for bringing them on record. It is submitted that plaintiff has expired on 13-4-2020 at Bangalore. Applicants are her heirs. Hence, they have prayed to allow the application.

2] Application is opposed by defendant by filing his say. He submitted that application is out of limitation. Suit has already abated. There is a delay. Hence, prayed to reject it. Heard Ld. Advocates for respective parties. Present suit is filed for removal of encroachment and for perpetual injunction. It is the case of plaintiff that she is the joint owner and possessor of the suit property. Defendant has constructed house by encroaching over the suit property.

3] Applicants are claiming to be the legal representatives of deceased plaintiff. Perusing the death certificate annexed with list Exh. 25 it transpires that plaintiff has died on 13-4-2020. The copy of family tree issued by Dy. Tahsildar, Kengeri, Hobli shows that applicants are legal heirs of the plaintiff. Thus, considering these facts and the nature of suit, valuable rights of these applicants are vested in it. Hence, right to sue survives.

4] As per Article 120 of the Limitation Act, limitation for bringing legal representatives on record is 90 days from the date

of death of plaintiff or defendant as the case may be. In this context, as per the directions issued by the **Hon'ble Supreme Court in Miscellaneous Application No. 665/2021 in SMW(C) No. 3/2020 dated 23-9-2021**, in computing the period of limitation for any suit, appeal, application or proceeding, the period from 15-3-2020 till 2-10-2021 shall stand excluded. In the present case, plaintiff has died on 13-4-2020. Whereas, present application is filed on 5-2-2021. Hence, in view of the aforesaid directions, present application is within limitation. Thus, considering these facts, present application deserves to be allowed. It will help the Court to adjudicate the matter completely and effectively. On the other hand, no prejudice will be caused to defendant. Hence, for these reasons, following order is passed :

ORDER

- 1] Application (Exh. 23) is allowed.
- 2] Legal Representatives as mentioned in this application are permitted to be made parties to the present suit as LR's of deceased plaintiff.
- 3] Consequential amendment be carried in the plaint within 14 days from today.

Date : 09/03/2022

Sd/-
S. D. Kamalakar
Civil Judge (J. D.),
Roha, Dist. Raigad.