

Order below Exh.102.

1. This is a suit for declaration and perpetual injunction. By this application, legal representatives of plaintiff no.04 have prayed to implead them in the suit. According to them plaintiff no.04 has died on 04-12-2019 leaving behind heirs mentioned in the application. Right to sue survives after plaintiff no.04. They have made this application in limitation period. So they have prayed to allow the application.

2. Defendant no.02 has filed his say and opposed the application. He has prayed to reject the application.

3. Following points arise for determination, to which I have recorded my findings for the reasons given below.

<u>Points</u>	<u>Findings</u>
1. Whether the legal representatives of plaintiff no.04 be allowed to be made party in the suit ?	... In the affirmative.
2. What order ?	... As per final order.

REASONS

4. Perused the application and say. Heard argument of learned Advocate Pawar for legal representatives of plaintiff no.04. He submitted that, plaintiff no.04 has died on 04-12-2019 and the application has been made on 13-02-2020. The legal representatives have moved application to implead them in suit within limitation period. All the legal heirs of plaintiff no.04 have been sought to be impleaded as right to sue survives after plaintiff no.04. Hence he prayed to allow the application. Learned

Advocate Salunkhe on behalf of defendant no.02 prayed to reject the application.

As to points No. 1 and 2 :-

5. The legal representatives of plaintiff no.04 have produced copy of death certificate of plaintiff no.04 alongwith Exh.101. It shows that, plaintiff no.04 Bhagwat Shripat Ambre has died on 04-12-2019. This application has been moved on 13-02-2020. The limitation period to move application under Order XXII Rule 3 is ninety days. So the application which is moved by the legal representatives of plaintiff within 90 days of death of plaintiff, is well in limitation. Defendants have not given grounds for which they pray to reject the application. The right to sue survives after plaintiff no.04. Hence there is no hurdle to allow the applicants to appear in the suit and implead them as plaintiffs. Accordingly, point No.01 is answered in the affirmative and in answer to point No.02 following order is passed.

Order

1. Application is allowed.
2. The legal representatives of plaintiff no.04 are permitted to appear in the suit.
3. They shall amend the array of plaint and implead themselves in the suit within statutory period of fourteen days.
4. Costs in main cause.

Dt. 13-02-2020.

R. R. Patil
Civil Judge Junior Division
Mahad.