

Order below Exh.32

This is an application under **under Order XXII Rule 4 of the C.P.C.** for taking legal representatives of Plaintiff Gajanan Gopal Shelar on record. As per the proposed LR's of plaintiff, Plaintiff Gajanan Gopal Shelar was died on 31/05/2021. After his death, there are legal representatives of the deceased plaintiff. Further, there are proposed legal representatives of the deceased plaintiff hence they should be on record. Hence prayed to allow said application and condone the delay caused and set aside abatement.

02. Defendants filed their say and prayed to reject application. As per the defendants the application is not within the limitation. The reasons mentioned are false and frivolous. In absence of justifiable grounds application is liable to reject.

03. Delay caused to file said application is condoned through order below exhibit 31. On perusal of copy of the death certificate filed at exh.35, it appears that Plaintiff Gajanan Gopal Shelar was died on 31/05/2021. On perusal of the application, it appears that there are legal representatives of the deceased defendant. Considering the nature of the suit and the fact that it is in respect of immovable property, the cause of action survives against the LRs of the deceased defendant. It is a well-settled principle of law that this type of application shall be considered liberally. Even otherwise opportunity of taking LRs on record and affording them the opportunity of hearing is essential for adjudication of real controversy between the parties at once on merits and for avoiding multiplicity of litigations. No prejudice would be caused against the defendants.

04. In given circumstances, the present application is allowed in the interest of justice subject to a cost of Rs. 500/- for pending said suit by filing this applications and that can be saddled on the applicant.

Accordingly, I pass the following order.

ORDER

1. Application is allowed subject to a cost of Rs.500/-.
2. The plaintiff shall carry out appropriate amendments in the plaint and shall file a copy of the amended plaint.
3. The compliance as above shall be made on or before the next date without fail.

Date:16/06/2023
Place: Lanja.

(P. R. Bhosale)
Civil Judge Junior Division.
Lanja.

CERTIFICATE

I affirm that the contents of this pdf file Order are same words as per original Order,

Case No : R.C.S. No 44 of 2018

Name of the Stenographer: S. D. Chavan

Court Name: Civil & Criminal Court, Lanja,
Dist.Ratnagiri,

Date of decision : 16/06/2023.

Judgment/Order signed by P.O.on : 16/06/2023

Judgment/Order uploaded on : 16/06/2023.