

Order below Exh.38

This is an application for taking legal representatives of defendant no. 04 Urmila Laxman Gurav, defendant no. 05 Vasant Vishram Gurav and defendant no. 06 Shantaram Vishram Gurav on record. As per the plaintiff, defendant no. 04 Urmila Laxman Gurav was died on 21/04/2021, defendant no. 05 Vasant Vishram Gurav was died on 29/04/2021 and defendant no. 06 Shantaram Vishram Gurav died on 16/01/2022. After the death of defendants there are legal representatives of the deceased defendants and they have to be on record for just decision of this case. Hence prayed to allow said application and prayed to take legal representatives on record.

02. Notice was issued to proposed legal representatives. They filed their reply at Exh. 47 and prayed to allow the application. The defendants have filed their say on the application. As the applicant is not in limitation also the application does not contain cogent and justifiable reason, they prayed to reject this application with costs.

03. Delay caused to file said application is condoned through order below exhibit 37. On perusal of copy of the death certificate filed at exh. 32/01, 33 and 34, it appears that defendant no. 04 Urmila Laxman Gurav was died on 21/04/2021, defendant no. 05 Vasant Vishram Gurav was died on 29/04/2021 and defendant no. 06 Shantaram Vishram Gurav died on 16/01/2022. The suit is abated against them. On perusal of the application, it appears that there are legal representatives of the deceased parties. 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 defendants. 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 to the defendants. Their inconvenience due to such delay can be compensated in costs.

04. In given circumstances, the present application needs to be allowed subject to a cost of Rs. 500/- 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 amendment 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.
4. Taking into account the stage of the suit and the fact that it is of the year 2017, the parties are directed to conduct the suit on priority.

Date:06/06/2023
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 : RCS 32 of 2017

Name of the Stenographer: S. D. Chavan

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

Date of decision : 06/06/2023.

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

Order uploaded on : 06/06/2023.