



REGULAR CIVIL SUIT NO. 59/2016

ORDER BELOW EXH-66

(MHSI04-000282-2016)

(Kamalakar Sawant etc.2 V/S Shivaji Gavade @ Sarmalkar etc.5)

This is an application under Order XXII Rule 4, R/W section 151 of Code of Civil Procedure, 1908 (Hereinafter "C.P.C" for short)

2. It is submitted by the plaintiff that, present suit is file for specific performance of an agreement to sale of immovable property. During the pendency of the suit, plaintiff has informed that defendant No.1A Smt. Sitabai Shivaji Gavade passed away on 18th of June, 2025. Her death certificate issued by the Grampanchyat Bambarde Tarf Kalsuli is produced along with the application. She had contested the suit during her life time. Defendant No.5 Smt. Nita Chandrakant Gode who is daughter of deceased vendor and deceased defendant No.1A is already arrayed as a defendant in the present suit. She is sole surviving legal heirs deceased defendant No.1A. Therefore, he prayed to take on record the death of defendant No.1A and to allow to amend cause title of the plaint and to allow suit to proceed against existing parties.

3. Defendant has filed his say and objected the application. Stating application is not tenable in law and defendant No.1A cannot be deleted.

4. Perused application and say. Heard both sides.

5. This is an application filed by the plaintiff to take on record the death of defendant No.1A who is survived through defendant No.5 who is already party to the suit. It appears from the record that, Smt. Sitabai Shivaji Gavade died on 18th of June 2025 and application for taking legal heirs on record is filed on 17.07.2025. Further, after withdrawing the same, it is again filed on 05.08.2025 and same is within limitation i.e. within the 90 days from the death of the defendant No.1A. Further, the legal heir of deceased defendant No.1A is already on record. Therefore, there is no hurdle to grant permission to carry out necessary

amendment in the plaint. Further, name of the deceased defendant No.1A need not to be deleted from the cause title but, only her death need to be mentioned before her name hence, plaintiff to carry out amendment accordingly. Hence, I pass following order.

ORDER

1. Application Exh.66 is hereby allowed with no order as to costs.
2. The plaintiff is permitted to carry out the amendment in the cause title of the plaint without deleting the name of deceased defendant No.1A.
3. Plaintiffs are directed to amend the plaint and file amended copies of plaint on or before next date.

Sd/-

(Smt. R. G. Kumbhar)

Date-13.11.2025

Extra Jt. C.J.J.D. & J.M.F.C.,Kudal.