

CNR:MHSI05-0001812017

Vilas Parsekar

Vs.

Rukmini Parsekar etc.

ORDER PASSED BELOW EXH. 59

Perused the application and say filed by plaintiff at Exh. 61. Heard both sides. Perused the record. It reveals that, plaintiff has filed present suit for seeking relief of partition, declaration and permanent injunction in respect of the suit properties. Defendant Nos. 1 and 2 have filed their joint written statement at Exh. 29. My learned predecessor has framed issues at Exh. 30 in consonance with pleadings of parties. The plaintiff has filed his affidavit in-lieu of examination in-chief at Exh. 41. The suit proceeding is quite old. It is pending for cross- examination of plaintiff by advocate for defendants. Record reveals that defendant No.2 is died during the pendency of the suit proceeding. Advocae for defendants has filed pursis at Exh. 49 stating that defendant No.2 is died in the month of October 2020. A copy of death extract is attached along with it. Accordingly, suit is abated against defendant No.2 on 15/02/2023. In my view, as nature of the suit is of partition, it is necessary to add all co-sharers of the suit properties into the plaint. Similarly, plaintiff in his say filed at Exh. 61, into para No.7 admitted that deceased defendant No. 2 has legal heirs. But, for want of exact names and addresses of legal heirs of deceased defendant No.2, he did not take steps in that respect. As well as, plaintiff shows his willingness to add proposed legal heirs of deceased defendant No.2 into the suit proceeding. The present application is filed by proposed legal heir of deceased defendant No.2 namely Parshuram Govind Parsekar. It is not in dispute that suit is abated against deceased defendant no. 2. Hence, in my view it would be proper and just to allow the application as prayed. Hence,

application is allowed. Plaintiff is directed to add all proposed legal heirs of deceased defendant No.2 into the suit proceeding and do the needful. Defendant No.1, his advocate and proposed legal heir of deceased defendant No.2/applicant are directed to co-operate with plaintiff and his advocate. Also to provide them necessary and proper information about exact names and addresses of proposed legal heirs of deceased defendant No.2. Since suit is more than 5 years old, all parties do the needful at the earliest.

(Dictated and pronounced in open court)

Vengurla.

(K.K.Patil)

Date : 23/08/2023

Civil Judge,Jr.Dn., Vengurla.