

MHSI06-000010-1993

R.C.S. 56/1993
Laxman V/s. Kamalakant

ORDER PASSED BELOW EXH.310
(Passed on 27/01/2025)

Present application has been filed by the applicant for bringing Legal representative of deceased plaintiff on record.

2. The applicant contented that, the plaintiff namely Laxman Sakharam Gavankar died on 06/01/2020 at Mouje Kolgaon, Tal. Sawantwadi. The applicant Yashodhan @ Goutam Ramchandra Gavankar is legal representative plaintiff by way of Will Deed dated 14/10/2017. He has also filed application for condonation of delay and setting aside abatement. By this application he prayed to brought legal representatives of deceased on record.

3. The defendant has filed his say to this application at Exh. 321. He strongly opposed the application and submitted that, the application is false. The applicant has not produced Will Deed and death certificate of deceased on record. The reason mentioned for delay is not genuine. The Will Deed is not proved. The deceased had brother and sisters. The applicant is not only legal representative of deceased. Hence, prayed for rejection of the application.

4. Perused record and heard both sides.

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5. The suit is filed for possession and permanent injunction. During pendency of the suit plaintiff namely Laxman Sakharam Gavankar died on 06/01/2020. The deceased had prepared his Will on 14/10/2017. As per the said Will Deed the applicant claiming himself to be the legal representative of deceased Laxman Sakharam Gavankar. As per Sec. 2(11) of C. P. C. the legal representative is a person who in law represents the estate of a deceased person. The said Will Deed and death certificate of deceased is filed on record. Right to sue survives. No any other person claiming himself to be legal representative of deceased. The question regarding Will Deed dated 14/10/2017 is legal or not will be decided on its merits. Therefore, to meet the ends of justice I proceed to pass the following order:-

ORDER

01. Application is hereby allowed.
02. After compliance of order passed below Exh. 308 and 309 the applicant is permitted to appear as legal representative of deceased plaintiff and amend the suit accordingly.

Sawantwadi
Date:27/01/2025

(J.M. Mistry)
Civil Judge (Jr.Dn.),
Sawantwadi.