



CNR No. MHSI070000492013

**Common Order passed below Exh. No.171
(I.A. No.4/2022) and 188 in R.C.S. No.14/2013**

This is an application preferred by the plaintiff under Order 22 Rule 4 along with Order 6 Rule 17 of the Code of Civil Procedure.

2. The plaintiff has contended that, bailiff report was received stating that the defendant no.22 Bhalchandra Jagannath Mayekar died at Mumbai. The plaintiff tried to obtain name of the legal heirs of the deceased defendant no.22. However, the plaintiff could not get name and addresses of the legal heirs of the deceased defendant no.22. Later on, the plaintiff came to know name and addresses of legal heirs of the deceased defendant no.22. The plaintiff has contended that deceased defendant no.22 left behind proposed legal representative no. 22-A to 22-C. The right to sue is survived against proposed defendant no.22-A to 22-C. Therefore, prayed to allow the application and substitute legal heirs of the deceased defendant no.22-A to 22-C in place of deceased defendant no.22.

3. The defendant no.1 to 3 have resisted the application by filing say below Exh.170. It is contended that the application is false and frivolous. The proposed legal heirs no.22-A and 22-B have also resisted the application at Exh.171 by filing say at Exh.178. It is contended that on 13/06/1999, the defendant no.22 was died. The defendant no.22 was died before the filing of present suit. The reasons are not bonafide and satisfactory. It is

also contended that the plaintiff has not added their sister Shraddha Ajit Chavan after marriage known as Shobha Bhalchandra Mayekar. The delay is inordinate, therefore, prayed to reject the application with compensatory Costs of Rs.10,000/-.

4. The application is supported with the affidavit of plaintiff. From the contents of the application it appears that defendant no.22 died, but his date of the death is not known. It is also appears that defendant no.22 died living behind proposed defendant no.22-A to 22-C. The right of sue survives against proposed defendant no.22-A to 22-C. Thus, in view of the provisions of Order 22 Rule 4, the proposed defendant no. 22-A to 22-C needs to be brought on record. Hence, the application filed by the plaintiff is liable to be allowed. Accordingly, I pass following order.

ORDER

The application at **Exh.171 and 188** are hereby allowed and the plaintiff is permitted to carry out necessary amendment to add the proposed defendant no.22-A to 22-C in the place of deceased defendant no.22 and provide amended copies of plaint to the parties of the suit.

(Pronounced and dictated in open Court.)

Place - Malvan
Date - 11/03/2024

sd/-
Mahesh R. Devkate
Civil Judge Jr.Dn., Malvan.