

CNR No. MHSI070000722019**Order passed below Exh. No. 63
(I.A. No.3/2023) in R.C.S. No. 13/2019**

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

2. The plaintiffs have contended that defendant no. 1 died on 08/05/2019 living behind proposed defendants no.1-A to 1-C. Therefore, prayed to allow the application and bring the legal heirs of the deceased defendant no.1. The proposed legal heirs no. 1-B and 1-C have resisted the application by filing say at Exh. 71. It is contended that the delay is an inordinate. Therefore, heavy Costs be imposed. The plaintiffs have filed pursis at Exh. 72 and informed that proposed defendant no. 1 -A namely Nirmala Anant Phopale was died living behind proposed defendant no. 1-B and 1-C.

3. The application is supported with the affidavit of plaintiff no. 1 namely Rocky Prakash Digambar Sadvelkar. From the contents of the application it appears that defendant no.1 died on 08/05/2019 living behind proposed defendant no.1-A to 1-C. However, pursis filed by the plaintiff at Exh. 73 discloses that proposed defendant no. 1-A was also died living behind proposed defendant no. 1-B and 1-C. The right of sue survives against proposed defendant no.1-B and 1-C. Thus, in view of the provisions of Order 22 Rule 4, the proposed defendants no. 1-B

and 1-C needs to be bring on record. Hence, the application filed by the plaintiffs is liable to be allowed. Accordingly, I pass following order.

ORDER

The application at **Exh. 63** is hereby allowed and the plaintiffs are permitted to carry out necessary amendment to add the proposed defendant no. 1-B and 1-C in the place of deceased defendant no. 1 and provide amended copies of plaint to the parties of the suit.

(Pronounced and dictated in open Court.)

Place - Malvan
Date - 23/07/2024

Mahesh R. Devkate
Civil Judge Jr.Dn., Malvan.