



CNR No. MHSI070001972019

Order passed below Exh. No.126

(I.A.No.6/2023) in R.C.S. No.33/2019

This is an application preferred by the plaintiff no.2 under Order 6 Rule 17 of the Code of Civil Procedure.

2. The plaintiff has contended that defendant no.5 namely Uday Pundalik Hindalekar died on 04/09/2006 issueless. The defendant no.5 living behind the defendants no.4, 6, 7, 9 as his heirs. The defendants no.4, 6, 7, 9 are already on record. Therefore, it is prayed that name of the deceased defendants no.5 be strike out from the plaint and permission be granted to carry out said amendment.

3. The defendants have resisted the application by filing say on overleaf of the application. It is contended that the suit is filed against dead person. The plaintiff has not produced original death certificate of deceased defendant no.5. The application is not legal. Therefore, prayed to reject the application.

4. Heard both sides. Both the parties have reiterated the contents of application and say. The application is supported with the affidavit of plaintiff no.2 namely Harshada Haresh Padval. The defendant no.5 died issueless, living behind defendants no.4, 6, 7, 9 as a legal heirs. The defendants no.4, 6, 7, 9 are already

party of the suit. Therefore, it would be just and proper to strike out name of the defendant no.5 from the present suit. Therefore, the plaintiff needs to be permitted to carry out the proposed amendment. Thus, the application filed by the plaintiff is liable to be allowed and accordingly I pass following order.

ORDER

The application at **Exh.126** is hereby allowed and the plaintiff no.2 is permitted to strike out name of deceased defendant no.5 from the plaint and carry out necessary amendment and provide amended copy of the plaint to the parties of the suit free of Costs.

(Pronounced and dictated in open Court.)

Place - Malvan
Date - 10/10/2023

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