



CNR No. MHSI070002422018

Order passed below Exh. No.25
(I.A. No. 3/2024) in R.C.S. No. 41/2018

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

2. The plaintiff has contended that sole defendant died on 17/02/2023 living behind applicants no.1-A to 1-D. Therefore, prayed to allow the application and bring them on record in place of deceased defendant. The notice was issued to legal heirs of deceased defendant. The proposed legal heirs 1-A, 1-C and 1-D were served but they have not appeared before the court. Therefore, the application is proceed without their say. Proposed legal heir no. 1-B has resisted the application by filing say on overleaf of the application. It is contended that original death certificate is not produced with the application. Unless and until original death certificate is produced, legal heirs can not be brought on record. Therefore, prayed to reject the application.

3. The application is supported with the affidavit of plaintiff's trustee namely Prabhanand Dhanaji Dalvi. From the contents of the application it appears that sole defendant died on 17/02/2023 living behind proposed defendant no.1-A to 1-D. The right of sue survives against proposed defendant no.1-A to 1-D. Thus, in view of the provisions of Order 22 Rule 4, the proposed defendant no.1-A to 1-D needs to be bring on record. Hence, the

application filed by the plaintiff is liable to be allowed.
Accordingly, I pass following order.

ORDER

The application at **Exh. 25** is hereby allowed and the plaintiff is permitted to carry out necessary amendment to add the proposed defendant no. 1-A to 1-D in the place of deceased defendant and provide amended copies of plaint to the parties of the suit.

(Pronounced and dictated in open Court.)

Place - Malvan
Date - 17/08/2024

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