

ORDER BELOW EXH.56 IN SPECIAL CIVIL SUIT NO.33/2019
**(Sou.Radhabai Sadashiv Rasal and Ors Vs. Shri.Rajaram Mahadev
Yadav and Ors)**
(CNR NO.MHSN05-002672-2019)

Defendant No.4(a) who is plaintiff in counter claim filed this application for bringing legal heirs of deceased defendant No.1 Rajaram on record. It is opposed by other side vide reply and prayed for its rejection.

2. Heard parties. It is contended that defendant No.1 in counter claim is died on 30.04.2024 at Islampur by leaving behind legal heirs mentioned in application. In application necessary details of legal heirs left behind by deceased is mentioned. The application is challenged by other side on the ground that heirship certificate is not filed by plaintiff in counter claim to support of this application. The same does not appear proper for consideration. The application is supported with affidavit of plaintiff in counter claim Smt.Jyoti Sarjerao Yadav, copy of affidavit is now marked as Exh.65. Plaintiff filed main suit for partition, perpetual injunction, compensation and mense profit. The presence of legal heirs of deceased defendant No.1 in counter claim as well in plaint is appear necessary to decide controversy involved in suit. Hence, I proceed to pass following order.

=ORDER=

1. Plaintiff in counter claim is permitted to bring legal heirs of deceased defendant No.1 on record.

2. Plaintiff of counter claim to carry out amendment in regard with legal heirs within a statutory period.
3. After compliance of order plaintiff in counter claim to file amended copy along-with additional for legal heirs.

Islampur.

Date : 22.08.2024

(G. R. Patil)

**Civil Judge Senior Division,
Islampur.**

ORDER BELOW EXH.49 IN SPECIAL CIVIL SUIT NO.33/2019
**(Sou.Radhabai Sadashiv Rasal and Ors Vs. Shri.Rajaram Mahadev
Yadav and Ors)**
(CNR NO.MHSN05-002672-2019)

Plaintiff in counter claim applied for permission to produce documents appended with document list on record. This application is challenged by adverse side vide reply.

2. Heard parties. The plaintiff in counter claim wants to produce certain documents mentioned in document list. The document list is now marked as Exh.66. This application is challenged by other side by contending that the documents filed by plaintiff in counter claim are not admitted. The objection raised by defendant does not appear proper for consideration. Hence, I proceed to pass following order.

=ORDER=

1. Plaintiff in counter claim is permitted to produce document on record.
2. Entry of Exh.66 given to document list dated 18.10.2023 be mentioned in roznama.

Islampur.
Date : 22.08.2024

(G. R. Patil)
Civil Judge Senior Division,
Islampur.

ORDER BELOW EXH.59 IN SPECIAL CIVIL SUIT NO.33/2019
**(Sou.Radhabai Sadashiv Rasal and Ors Vs. Shri.Rajaram Mahadev
Yadav and Ors)**
(CNR NO.MHSN05-002672-2019)

Plaintiff applied for condonation of delay in filing application for setting aside deemed abetment of suit order against defendant No.1 Rajaram. It is opposed by defendant No.1, 3 and 5 vide reply and prayed for its rejection or in alternative costs amount be imposed in case application is considered.

2. Heard parties. The Ld. Counsel for plaintiff submits that the defendant No.4(a) and 4(b) have filed counter claim along-with their written statement. In counter claim, the plaintiff therein applied for bringing legal heirs of deceased defendant No.1 in counter claim. In the application, it is contended that defendant No.1 Rajaram Yadav is died on 30.04.2024 and present application is filed on 20.08.2024 for setting aside deemed abetment. It is contended in application that the defendant No.1(a) looks the work of suit, due to his illness he could not meet his Counsel in time to bring legal heirs of deceased defendant No.1 on record resulted in suit deemed abated. In fact, it appear mistake in mentioning defendant No.1(a) in place of plaintiff No.1(a). The application is supported with the affidavit of plaintiff No.1(a) Sadashiv Rasal. The cause referred in application appear justifiable to condone delay in applying for setting aside deemed abetment. Hence, I proceed to pass following order.

=ORDER=

Delay is condoned in applying for setting aside deemed abetment of suit order against defendant No.1.

Islampur.

Date : 22.08.2024

(G. R. Patil)

Civil Judge Senior Division,
Islampur.

ORDER BELOW EXH.58 IN SPECIAL CIVIL SUIT NO.33/2019
**(Sou.Radhabai Sadashiv Rasal and Ors Vs. Shri.Rajaram Mahadev
Yadav and Ors)**
(CNR NO.MHSN05-002672-2019)

Legal heirs of plaintiff applied for setting aside deemed abetment of suit against defendant No.1. It is opposed by other side vide reply and prayed for its rejection.

2. Heard parties. In support of application, the legal heirs have filed separate application Exh.59 for condonation of delay in applying for setting aside deemed abetment of suit order. The delay is already condoned. In view of order below Exh.59 and ground referred in application, deemed abetment of suit order against defendant No.1 is appear proper to set aside by passing following order.

=ORDER=

Deemed abetment of suit order against defendant No.1 is hereby set-aside.

Islampur.
Date : 22.08.2024

(G. R. Patil)
Civil Judge Senior Division,
Islampur.

ORDER BELOW EXH.60 IN SPECIAL CIVIL SUIT NO.33/2019
**(Sou.Radhabai Sadashiv Rasal and Ors Vs. Shri.Rajaram Mahadev
Yadav and Ors)**
(CNR NO.MHSN05-002672-2019)

Legal heirs of plaintiff No.1 filed this application for bringing legal heirs of deceased defendant No.1 Rajaram on record. It is opposed by other side vide reply and prayed for its rejection.

2. Heard parties. The plaintiff filed main suit for partition along-with other reliefs. The defendant No.4(a) and 4(b) have filed counter claim at Exh.48 against defendants including deceased defendant No.1. The legal heirs of deceased defendant No.1 are permitted to bring on record vide order below Exh.56. This application is filed along-with application Exh.58 for setting aside deemed abetment and application Exh.59 for condonation of delay, these applications are allowed. The presence of legal heirs left behind by deceased defendant No.1 is necessary being suit filed for partition along-with other reliefs. Hence, I proceed to pass following order.

=ORDER=

1. Application is allowed, legal heirs of plaintiff are permitted to bring legal heirs of deceased defendant No.1 Rajaram on record.
2. Legal heirs of plaintiff to carry out amendment in regard with legal heirs within a statutory period

3. After compliance, legal heirs of plaintiff to file amended
plaint copy along-with additional for legal heirs of deceased
defendant No.1.

Islampur.

Date : 22.08.2024

(G. R. Patil)

Civil Judge Senior Division,
Islampur.

-CERTIFICATE-

I affirm that the contents of this P.D.F file judgment/order are same, word to word, as per the original judgment/order.

Name of Stenographer	:-	Sachin B. Yadav, Stenographer-II
Name of Court	:-	Civil Judge Senior Division, Islampur.
Date of decision/typed	:-	22.08.2024.
Judgment/order signed by the P.O. on	:-	22.08.2024.
Judgment/order uploaded on	:-	22.08.2024.