

ORDER BELOW EXH.37

IN

Spl.C.S.No. 33 of 2015

(CNR No.MHSO06-0001912015)

- 1] This is an application for the amendment of pleadings.
- 2] It is submitted by the application that the present suit is for partition. The defendant No.2 Gorakh has died on 30.05.2018. After his death, he is having wife and children. Those are necessary parties for the suit. Hence, those should be joined as defendants No.15 to 19. Hence, the amendment should be allowed.
- 3] The notice was issued by my learned predecessor to proposed defendants. They filed their say and challenged application as false and not maintainable. It is liable to be rejected.
- 4] Heard learned advocate for plaintiffs. The learned advocate for the proposed defendants is absent when called repeatedly. No adjournment application is filed. The death of defendant No.2 is not disputed. The copy of death certificate is filed. He has died on 30.05.2018. The present application is filed on 04.07.2018 i.e. within limitation.
- 5] The present suit is for partition and separate possession. All the co-parceners and in case of their death, their children are necessary parties for the suit. The suit cannot be decided on merit, unless proposed defendants are joined. The nature of suit does not change by the amendment. It is relating fact occurred in pendency. It is necessary to avoid multiplicity of proceedings. But, plaintiffs have claimed to add proposed defendants as defendants No.15 to 19. As per Civil Manual legal heirs should be made party as 2A , 2B 2C. As

defendant No.2 is dead the amendment should be carried out accordingly. Hence, following order is passed.

ORDER

The application is allowed with direction to the plaintiff to add proposed defendants as legal heirs of deceased defendant No.2 as per Civil Manual rules.

Pandharpur
Date:- 14.06.2022

Civil Judge Senior Division,
Pandharpur

CERTIFICATE

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

Name of Stenographer : B.R.Kondekar
Court Name : Civil Court Senior Division, Pandharpur
Date 14-06-2022

Order/Judgment signed
by the Presiding Officer on : 14-06-2022

Order uploaded on : 15-06-2022