

ORDER BELOW EXHIBIT 79 IN REGULAR CIVIL SUIT NO. 331/2013

1 The applicants have filed this application for bringing legal heirs of deceased Bandoo Shivaji Bhosale. It is contention of the applicants that they are legal Heirs of Bandu Bhosale, original plaintiff who has died on 5-1- 2017 during pendency of the suit. Defendant No. 2 is also claiming to be legal heir of deceased plaintiff, but she is already on record. As the plaintiff has died, applicants are required to be taken on record as legal heirs of plaintiff in this case. So it is requested that application should be allowed and applicant be added as plaintiffs in this case.

2 Defendant No. 1 has filed say to the said application at exhibit No. 83 and he has denied the contentions raised in the application. As per contention of defendant No. 1 defendant No. 2 is only legal heir of deceased Bandu Bhosale. The application filed by applicants suffers some technical defects because in the application, the names of persons filing the application have not been specifically mentioned as applicants. It is contended that Sanjana Balu Bhosle is not legal heir of deceased. As she is second wife of Bandu. So she cannot be Added as legal heir. Defendant No. 2 being already on record, she is only legal heir of deceased Bandu. If the relief claimed against defendant No. 2 in this case is considered, no specific steps have been taken for bringing her own record. The age mentioned of the applicant is not proper and correct. Considering all these aspects, it is requested to reject the application.

3 Perused the application and say filed by defendant No.1. Heard learned counsels of the parties. If the plaint is perused, it is seen

that Bandu Bhosale has filed the suit against Dattatraya Shingate and Chhaya Bhosale. In the plaint specific contention has been taken that the sale deed executed in favour of defendant NO.1 by defendant No. 2 is illegal. It is contended that, the sale deed executed by Bandu in favor of his wife defendant No. 2 is without consideration and so the subsequent sale deed executed in favor of the defendant No. 1 by the defendant NO. 2 is not legal. If written statement of defendant is perused, as per the contention of the defendant, Bandu Bhosale had given the suit property towards the maintenance. During pendency of the suit plaintiff died. Now if the application is perused and say filed to the said application is perused, the fact that other applicants except Sanjana are legal heirs of deceased plaintiff is not denied. Only contention has been taken that Sanjana not being legal heir, she cannot be taken on record, because she is second wife. Now whether she is second wife and not entitled to any relief is the question to be decided on merit. Right now as the suit must be continued as the applicants are claiming right after the deceased plaintiff, in my opinion, keeping open the contention with respect to legal status of Sanjana, in my opinion, application can be allowed. Hence, I proceed to pass the following order:-

::ORDER::

- 1) Application is allowed.
- 2) Applicants are permitted to be brought on record as legal heir of the deceased plaintiff, keeping open the objection raised by defendant number 1 with respect to legal status of Sanjana Bhosale proposed plaintiff.

Dt:03.04.2018.

(S.T. Shinde),
3rd Jt. Civil Judge Junior Division,
Pandharpur.