

**ORDER BELOW EXH.18 IN RCS. NO.625/2021**  
**[CNR NO.MHSO110025992021]**

- 1) This application is filed by the plaintiff under Order VI Rule 17 of the Code of Civil Procedure – 1908 for amendment in the Plaintiff.
- 2) It is the contention of the plaintiff that, he has filed suit for fixation of boundaries and perpetual injunction against the defendants. But, the defendants No.13, 21, 22, 25, 30 and 44 are died before the filing of present suit and their names have also not recorded to the 7/12 extract. The present plaintiff is not concerned with the deceased defendants. The plaintiff has come to the knowledge about the death of defendants by perusing the bailiff report on record. Therefore, the names of defendants No. 13, 21, 22, 25, 30 and 44 is required to be deleted from the title clause of the plaintiff. Plaintiff further submits that, in the present suit the other defendants No.57 to 74 are required to be added. Hence, he prayed to allow the application.
- 3) Defendants by filing their say have strongly opposed to the present application and submitted that, the reasons stated in the application is not just and proper. Plaintiff has filed suit against dead persons. So also, he has not mentioned that, how the proposed defendants are necessary party in the present suit. Hence, they are prayed to reject the application.
- 4) Considering the rival contentions of both the sides. So

also, I have gone through the contents of application in the light of pleadings in the plaint. From the pleadings it appears that, the plaintiff has filed suit for fixation of boundaries and perpetual injunction against the defendants. In the present application he has specifically stated that, defendant No. 13, 21, 22, 25, 30 and 44 are died prior to filing the present suit. Therefore, to the extent of delete the names of dead defendants the proposed amendment is valid. But, the plaintiff nowhere contended that, how the proposed defendants whose names are mentioned in the present application are necessary party in the present suit. Therefore, without any cause of action the plaintiff has intended to add the proposed defendants in the present suit by way of present amendment. Without any cause of action law does not permit the plaintiff to add any proposed defendants in the suit. Hence, following order.

**ORDER**

1. Application Exh.18 is hereby partly allowed.
2. Plaintiff is permitted to delete the names of deceased defendants No. 13, 21, 22, 25, 30 and 44 from the title of plaint within stipulated time and to file on record the amended copy of the plaint subject to costs of Rs.500/- to pay other side.

Date: 25.11.2021.

( A.P. Karad)  
Jt. Civil Judge (J.D.)  
Malshiras.

CERTIFICATE

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

Name of the Stenographer	: S.S.Mitragotri
Court	: Jt.C.J.J.D Malshiras
Date	: 25.11.2021
Judgment signed by the P.O	: 25.11.2021
Judgment uploaded on	: 26.11.2021