

ORDER BELOW EXH. 47

This application is filed by the applicants under Order I Rule 10 of the Code of Civil Procedure for impleading them as legal heirs of deceased defendant no. 3 on record.

2] Read application and say filed by the plaintiff at Exh. 51. Heard learned advocates for both sides. Perused the record.

3] The plaintiff has instituted the present suit for pre-emption and perpetual injunction. In short it is the case of the plaintiff that, defendant no. 1 and 2 are son and widow of deceased brother of plaintiff Pandurang. They got the properties in partition. The field property of defendant no. 1 and 2 are adjacent to the field property of the plaintiff. The defendant no. 1 and 2 are residing out of village for service purpose. Therefore the field property of defendants is under possession of the plaintiff. However, defendant no. 1 and 2 agreed to sell their field property to defendant no. 3. Hence, the plaintiff instituted this suit for right of pre-emption. During the pendency of the suit, defendant no. 3 died. The plaintiff filed application at Exh. 34 to delete his name. Accordingly order is passed and plaintiff permitted to delete the name of deceased no. 3.

4] The applicants submitted that, they are the legal representatives of deceased defendant no. 3 being widow and sons. Deceased defendant no. 3 had entered into the agreement to purchase field property of defendant no. 1 and 2. During the pendency of suit defendant no. 3 died. The plaintiff ought to have taken legal representatives of deceased defendant no. 3 on record. However, plaintiff failed to do so and

delete the name of defendant no. 3. They have right and interest in the field property of defendant no. 1 and 2 as their father and husband had entered into an agreement to purchase the field property of defendant no. 1 and 2. Hence, they prayed for impleaded them as legal representatives of deceased defendant no. 3 on record.

5] Admittedly, the plaintiff filed the suit for pre-emption. Defendant no. 3 had agreed to purchase field property of defendant no. 1 and 2 during his life time. There is no dispute that during pendency of suit deceased defendant no. 3 died and plaintiff did not bring his legal representatives on record. There is also no dispute that, applicants are legal representatives of deceased defendant no. 3. Considering the nature of the suit and submissions advanced on behalf of the applicants, they are the proper and necessary parties to the suit. Hence, considering above facts and circumstances I pass following order:

ORDER

- 1] Application is hereby allowed.
- 2] The plaintiff is directed to implead the names of applicants as defendants in the present suit.
- 3] The plaintiff shall carry out necessary amendment and file the amended copy on record within 14 days from the date of this order.

Date:29/07/2026

(U. B. Pethe)
Jt. Civil Judge, Junior Division,
Malshiras.

CERTIFICATE

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

- (a) Name of the Stenographer : M. P.Gheradi.
- (b) Name of the Court : Jt.C.J.J.D. & J.M.F.C,
Malshiras, Dist Solapur
- (c) Order signed by P.O. On : 29.07.2026
- (d) Order uploaded on : 29.07.2026