

**ORDER BELOW EXHIBIT-1**

In view of order below Exhs.192 and 194 dated 02.04.2026, the plaintiff No.D has deposited the cost and taken LR's of deceased plaintiffs on record, filed amended plaint Exh.1/5. Already notice was issued to the LR's of the deceased plaintiffs, they failed to appear, therefore, plaintiff No.D was directed to take LR's on record. Now question remains, the LR's of deceased plaintiffs are taken on record, they are remaining absent even notice is served. In this circumstances, what direction can be given to the plaintiff and defendants is a matter of concern.

02. It is settled position of law that, when plaintiff dies and legal heirs are brought on record, but remain absent, the suit does not automatically abate. As per Order XXII of CPC the Court can proceed with the hearing, as the legal heirs of deceased plaintiffs is represented by one of plaintiff. In the present suit, plaintiff No.D is present, who had taken legal heirs of deceased plaintiffs on record. In this circumstances, the physical absence of the legal heirs of deceased plaintiffs does not invalidate the substitution. Moreover, notice is served to the legal heirs. The effect of continues absent of the legal heirs of the plaintiff would result to proceed under Order IX (Rule 6) or Order XVII (Rule 2) of CPC. In the event of parties failed to produce evidence, the Court may proceed to decide the suit under Order XVII (Rule 3) of CPC.

03. In view of above position, admittedly the suit is for declaration, injunction and after amendment plaintiffs are claiming possession from defendant Nos.2 to 4. The crux of the suit is that, amendment application of the plaintiffs for claiming possession came

to be rejected in the year 2014, it was confirmed by Hon'ble High Court. However, Hon'ble Apex Court allowed the application and directed the plaintiff to cause amendment, with direction to dispose of suit within six months i.e. on or before 11.07.2026. In this background, after amendment, it was expected that, the defendants were suppose to file additional written statement and the plaintiffs were to adduce evidence only to the extent of additional issues framed dated 03.02.2026 with opportunity to defendants for cross and their evidence to that extent only.

04. However, the other plaintiffs expired, their legal heirs are taken on record, they are absent after notice is served. In these circumstances, I am of the view that, the absent legal heirs are represented by the plaintiff No.D, almost on previous issues evidence is adduced. Only on the point of additional issue of claiming possession, the plaintiff No.D is expected to adduce evidence. Once legal heirs of deceased plaintiffs are taken on record, they are absent after notice, in that circumstances, they are represented by the plaintiff No.D, therefore, the outcome/judgment of this suit would be binding on the legal heirs of deceased plaintiffs. In this facts and circumstances, I proceed to give following directions to the plaintiffs and defendants as under to comply the time bound disposal of the suit by the Hon'ble Apex Court.

### **ORDER**

01. The defendants to file written statement and plaintiff No.D to adduce evidence on the additional issues framed dated 03.02.2026.

02. The defendants shall remain present for cross-examination and also adduce evidence after the evidence of the plaintiff, if they wish so.
03. The Roznama shall be updated accordingly, i.e. as per order below Exh.1 today matter adjourned for additional written statement of defendants and additional evidence of the plaintiff No.D.
04. The matter is time bound by Hon'ble Apex Court, it will be kept for hearing on day to day basis. Both the parties to take note of order, failing which further necessary order will be passed on next date.

Date:-09.04.2026

( P. B. Lokhande )  
Civil Judge, Senior Division,  
Barshi.

4 Sp.C.S. No. 89/2007.  
Baliram & Ors. Vs. Ratnabai & Ors.

**C E R T I F I C A T E**

I affirm that the contents of this PDF file Order / Judgment are same word to word, as per the original Order / Judgment.

Name of the Stenographer : Shripad N. Chilka, Steno Grade-2.  
Court : Civil Court Senior Division, Barshi.  
Judgment/Order signed by the P. O. on : 09.04.2026  
Judgment / Order uploaded on : 09.04.2026