

ORDER BELOW EXHIBIT-568

Legal heirs of defendant No. 1 have filed this application to frame additional issue. Succinctly, they have submitted that they have filed their additional written statement vide exhibit-562. In their written statement in para No. 4, they have submitted that the plaintiff (since deceased through legal heirs) has not impleaded all the co-owners (legal heirs of late Janabai). Therefore, the suit is bad for non-joinder of the parties. Hence, the additional issue be framed in that respect.

02. On behalf of the plaintiff (since deceased through legal heirs) his learned Advocate has given his say on the application. Succinctly, he has submitted that the application is not tenable and devoid of merits. This application has been filed to fill up the lacuna and delay the matter. Previously, defendant No. 2 did not complain about this. Hence, the application at exhibit-568 be rejected with costs. He has further submitted that legal heirs of deceased defendant No. 2 has been brought on record and they have filed their written statement vide exhibit-566. Additional issues be framed taking into account averments in the said written statement at exhibit-566.

03. I have perused the record of the case. It appears that legal heirs of defendant No. 1 have filed their written statement vide exhibit-562. In their written statement in para 4, they have pleaded that the plaintiff has not impleaded all the co-owners. Hence, the suit is bad for non-joinder of the parties and on this ground also the suit be dismissed.

04. Taking into account above mentioned pleading of legal

heirs of defendant No. 1, issue of non-joinder of the necessary party is necessary. On going through the issues at exhibit-55, it appears that issue has not been framed on the point of non-joinder of necessary parties. Hence, I pass following order: -

ORDER

Application at exhibit-568 is allowed.

02. Additional issue is framed below exhibit-55 as follows:

“Does defendant No. 1 (since deceased through legal heirs) prove that the suit is bad for non-joinder of necessary parties?”

03. The additional issue framed as per this order be read as issue No. 4C and the additional issues framed by my the then learned predecessors below exhibit-55 on 10.06.2013 be read as issue Nos. 4A and 4B.

Date : 29.03.2025

(A. P. Khanorkar),
Civil Judge, Senior Division, Barshi.

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 : S. N. Chilka, Stenographer Grade-2.
Court : Civil Court Senior Division, Barshi.
Judgment / Order signed by the P. O. on : 29.03.2025
Judgment / Order uploaded on : 29.03.2025