

**ORDER BELOW EXHIBIT-740**

01. Defendant No.3B moved an application for substituting him as a plaintiff in this suit. He submitted that the plaintiff is not prosecuting the suit with due diligence. He having the same interest in this suit. Hence, prayed accordingly. The plaintiff has strongly opposed the application by filing say at Exh.742. He submitted that this defendant has not moved this application with good intention. Rather he moved this application with ulterior motive. This case is lingered for years together because the most of the defendants died during the pendency of the suit and time has been passed for bringing the legal representatives of deceased defendants on record. Thus, he is diligently conducting the proceeding of the suit. He is vigilant. This defendant is not vigilant. He was slept for years together. Now he moved this application with ulterior motive. Hence, prayed for rejection of the application.

02. Heard both parties at length. I have perused the record. The date of institution of the present suit is 08/09/1978. The present suit is for partition of immovable properties. Initially, only 10 defendants were added by the plaintiff while instituting suit against them. Thereafter, during the pendency of the suit, some defendants died. Some defendants have created third party interest in the suit property. So the plaintiff has

brought those interested parties in the suit property on record. Some purchasers died during the pendency of the suit. So the plaintiff also brought on record the legal representatives of those purchasers on record. Since inception, this proceeding is going on for bringing the legal representatives of defendants on record. Before filing of this application, the case posted for issuing summons to the legal representatives of defendant No.4. In this case, it appears that defendant No.1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 18, 31 are died during the pendency of the suit. There are 36 defendants in this suit. So it cannot say that the plaintiff is not conducting the suit with due diligence.

03. This matter is dragged years together only because some of the defendants are died and time has been passed for bringing the legal representatives of those deceased defendants on record. Thus, I am of the opinion that the plaintiff is prosecuting the suit against defendants with due diligence. There is no substance in the allegation of defendant No.3B that the plaintiff is not prosecuting against the defendants with due diligence. Thus, it is not necessary to substitute this defendant as a plaintiff in this suit as per Order I Rule 8(5) of the Code of Civil Procedure. The present application deserves to be rejected. Hence, application Exh.740 is rejected. It is directed to the plaintiff to take proper steps in this case against deceased defendants.

C E R T I F I C A T E

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

(a)	Name of the Stenographer	:	Shri.S.R. Barangule
(b)	Court	:	Shri.S.B. Vijaykar, Jt.C.J.J.D.&J.M.F.C. Barshi.
(c)	Judgment /Order declared on	:	10/02/2025
(d)	Judgment /Order signed by P.O. on	:	10/02/2025
(e)	Judgment /Order uploaded on	:	10/02/2025