

**ORDER BELOW EXH. 20 IN R.C.S. NO. 72/2023**  
**CNR NO. MHSO1900-000495-2023**

**Satywan Sondage.**

-V/s-

**Jalindar Sondage.**

Present application has been filed by plaintiff under Order 22 Rule 4 R/W Order VI Rule XVII of the C.P.C., 1908 thereby seeking permission to make proposed amendment in plaint.

2) Perused application and documents on record, say has not given by LRs of deceased defendant despite service of notice upon them and therefore, present application came to be proceeded further without their say. Heard learned Advocate for plaintiff.

3) Learned Advocate for plaintiff has submitted that plaintiff has filed instant suit for perpetual injunction against defendant. During pendency of the suit, defendant has expired on 06/01/2024. However, LRs of deceased defendant are required to be brought on record as mentioned in the present application. Therefore, only the matter such as, 'Deceased, through LRs - defendant Nos. 1A to 1D' is required to be mentioned after the name of deceased defendant in the cause title of suit.

4) It is further submitted that as such, in view of aforesaid subsequent event having taken place during pendency of suit, it is necessary to make proposed amendment in the plaint as described in the present application. If this application is allowed then there will be no change in the nature of suit. Hence, learned advocate for plaintiff has prayed for grant of

this application thereby permitting plaintiff to incorporate proposed amendment in the plaint.

5) Following points arise for my determination, I have recorded my findings thereon for the reasons discussed below.

<b><u>Sr. No.</u></b>	<b><u>Points</u></b>	<b><u>Findings</u></b>
1)	Whether the proposed amendment deserves to be allowed in plaint ?	In the affirmative.
2)	What order ?	Application is allowed.

### **REASONS**

#### **As to point No.1 :-**

6) I have perused record of the matter. It appears that present suit is filed for mere perpetual injunction. During the pendency of the suit, defendant has expired on 06/01/2024. However, LRs of deceased defendant are required to be brought on record as mentioned in the present application. Therefore, only the matter such as, 'Deceased, through LRs - defendant Nos. 1A to 1D' is required to be mentioned after the name of deceased defendant in the cause title of suit. As such, in view of aforesaid subsequent event having taken place during pendency of suit, it is necessary to make proposed amendment in the plaint as described in the present application. As such, plaintiff is only permitted to include the matter such as 'Deceased, through his LR - defendant' after the name of deceased defendant in the cause title of suit. Thus, I think it just and proper to allow this application in the terms as

stated above. Hence, I answer point No.1 in affirmative.

**As to point No.2 :-**

7) Considering all these aspects, I am of the opinion that, the application deserves to be allowed in the terms as stated above. Hence, I proceed to pass following order.

**ORDER**

01. Application is allowed.
02. Plaintiff shall carry out the proposed amendment within stipulated time and file the copy of amended plaint on record till next date.
03. After filing amended copy of plaint on record issue summons to the newly added defendants i.e. LRs of deceased defendant.
04. No order as to costs.

Date :- 13/11/2024  
Place :- Mohol.

( **S. W. Thombre** )  
Civil Judge Junior Division,  
Mohol

**CERTIFICATE**

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

Name of Stenographer : S. K. Torane

Court : Civil Judge Junior Division, Mohol.

Date : 16-02-2023

Judgment /order signed by the : 20-02-2023

Presiding Officer on

Judgment /order uploaded on : 20-02-2023