

ORDER PASSED BELOW EXH.28 IN RCS NO.186/2016

1. This is an application filed by plaintiff under Order-6 Rule -17 of Civil Procedure Code 1908 for amendment in plaint. The defendants have filed say below same application and resisted the same.

2. Perused the application as well as say. Heard. It is the contention of plaintiff that, the suit is filed for declaration and possession. During the pendency of the suit, defendant no.2 Laxmibai Kallappa Patil died on 21/05/2018. Defendant no.1 is her only legal heir. Therefore the name of defendant no.2 is required to be deleted. Hence, prayed to allow the application. Per contra according to defendants the application is filed by causing delay. Hence, prayed to dismiss the same.

3. Record shows that, the suit is filed for declaration of ownership on the basis of will dt.30/04/2009 as well as for possession along-with mesne profits. According to plaintiff defendant no.2 Laxmibai Kallappa Patil died during the pendency of the suit on 21/5/2018. The plaintiff has filed death certificate to show the said aspect below list Exh. 31. The plaintiff has prayed to delete the name of deceased defendant no.2 by way of amendment contending that, defendant no.2 has no other legal heirs except defendant no.1. It is not disputed by defendants. Hence, it can be accepted. However, permission to delete the name of defendant no.2 from the plaint can not be granted. Instead, it can be directed to mention the word 'dead' in front of the name of defendant no.2 into bracket. Accordingly following order.

ORDER

- 1] Application is allowed and plaintiff to mention the word 'dead' in to bracket in front of the name of deceased defendant no.2.
- 2] Cost in cause.

Date 13/08/2018.

(P V. Kulkarni)
Jt. Civil Judge J.D., 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	:	Sou. Vallal L.M.
Court	:	Jt. JMFC., Mohol.
Date	:	13/08/2018
Judgment		
by the Presiding Officer on	:	13/08/2018
Judgment/Order uploaded on	:	13/08/2018
