

Order Below Exh. 114 in R.C.S. NO. 253/00

Dhondubai Maruti Kamble (Dead) through LR's.

Vs.

Sharda Shivaji Reke (Dead) through LR's & Ors.

1. The present application is filed by plaintiffs for permission to bring on record legal heirs of deceased defendant no.4 Saraswati Reke who died on 28-8-19. As per contents of present application, defendant no. 4 has been survived by 4 sons and 1 daughter. Already all 4 sons of defendant no. 4 are party to the present suit being defendant no. 5 to 8. Therefore, it is prayed that permission be granted to make necessary amendment in the title clause of plaint by inserting word "dead" after name of defendant no.4 and to re-write name of Sou. Rohini alias Asha Dattatray Kurade after name of deceased defendant no.4.

2. Present application opposed by defendants on the ground that application is not within limitation and that all the heirs of defendant no.4 needs to be taken on record.

3. Perused the application and say. Perused the record. Heard.

4. On perusal of certified copy of death certificate of defendant no. 4 filed with list exhibit 116 it reveals that defendant no. 4 Saraswati Maruti Reke died on 28-8-2019. Therefore, it becomes clear that present application is filed within limitation. Now, another thing which appears from the record is that defendant no. 5 to 8 being the sons of deceased defendant no. 4 Saraswati are already on record. It is to be noted that though defendants have objected present application on the ground that all the heirs of deceased defendant no.4 needs to be brought on record but there is no specific objections raised by defendants about how many and who are the legal heirs of deceased

defendant no.4. However, as per contents of the present application apart from defendant no. 5 to 8 there is also one daughter of the deceased defendant no. 4 by name Rohini alias Asha Kurade. However, the amendment sought by plaintiff is only with respect to said Asha Kurade as the legal heir of deceased defendant no.4. However, considering the whole contents of present application it becomes clear that apart from said Rohini alias Asha Kurade the defendants no. 5 to 8 are also legal heirs of the deceased defendant no. 4. Accordingly, considering the nature of suit which is for compensation and perpetual and mandatory injunction the right to sue survives against the surviving defendants and therefore, I think it fit to allow the application in terms of following order:-

Order

1. The application is allowed.
2. Plaintiff shall make necessary amendment in the title clause of plaint by striking out name of defendant no.4 Saraswati due to her death and to add names of her all legal heirs i.e. defendant no. 5 to 8 and her daughter by name Rohini alias Asha Dattatray Kurade as her legal heirs as mentioned in the present application.
3. The cost of present application shall be born by plaintiffs.

Date:- 30-09-19

Place:- Karad

(A. P. Kulkarni.)

3rd Jt. C. J. S. D. Karad.