

CNR NO.MHST-0500 0445 2008

IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, KARAD
ORDER BELOW EXH. 175
IN
R.C.S. NO.310 OF 2008

1.Shrirang Baji Mali (deceased) ...Plaintiffs.
1A. Subhadra Shrirang Mali & Ors.

Versus

1. Vilas Sakharam Jadhav & Ors. ...Defendants.

Advocate Shri. S. R. Nikam for the plaintiffs.

Advocate Shri. R. C. Shaha for the defendants.

Coram : S. B. Todkar,
C.J.S.D. Karad.
Date : 03/03/2025

ORAL ORDER :

This is an application filed by the Ld. Advocate for the plaintiffs for permission to produce the document mentioned in the document list Exh.176 on record.

2. Perused the application and handwritten say given by Ld. Advocate for the defendants on application overleaf. Heard Ld. Advocates for the both side.

3. It appears from the record that plaintiffs have filed suit against defendants for perpetual injunction on the grounds specifically mentioned in the plaint. After service of writ of summons defendants appeared before Court and filed their written statements. My Ld. Predecessor framed issues. Thereafter plaintiffs have adduced their evidence and closed their side. Thereafter, defendants have adduced their evidence. When the matter is pending for further hearing at that time, during pendency of suit plaintiff No.1B expired

on 21/01/2024. But, plaintiffs failed to bring his legal heirs on record within prescribed period. Thereafter, plaintiffs have filed an application below Exh.169 for condonation of delay for setting aside abatement of the suit against the plaintiff No.1B, for setting aside abatement of the suit at Exh.171 and to bring the legal heirs of deceased plaintiff No.1B on record at Exh.176. On behalf of defendants their advocate has filed say on these above applications. When the matter is pending for argument on these applications at that time on behalf of plaintiffs present application is filed for production of document mentioned in Exh.176. As per the contents of present application and argument of Ld. Advocate of plaintiffs the document mentioned in document list Exh.176 is important for the determination of real question involved in the interim applications. Hence, the application.

4. After perusal of the contents of present application and the argument advanced by Ld. advocate for the plaintiffs, it appears the alleged document is necessary to determine the real question in controversy involved in the interim applications. If present application allowed, no prejudice would be caused to the defendants. Defendants can get an opportunity to file their say and refer or rebut the document at the time of hearing of the interim applications. The said document is related to the issues involved in the interim applications. It appears from record that whatever document produced alongwith present application and with document list Exh.176 was not produced at earlier stage or at the time of presentation of plaint and or at the time of filing interim applications, therefore, plaintiffs are seeking permission from the Court to produce it alongwith present application. As per O. VII R.14

sub-clause (3) of the Code of Civil Procedure, 1908, a document which ought to be produced in Court by the plaintiff when the plaint is present, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not, without leave of Court, be received in evidence on his behalf at the hearing of the suit. Whatever document produced by the plaintiffs alongwith document list Exh.176 is the document on which they want to rely, and to support their hearing at the time of interim applications. Therefore, it is necessary to give full and fair opportunity to both the parties to prove their contentions in the plaint and written statement, applications and their say. Therefore, I found substance in the submission made in the present application. Hence, I proceed to pass the following order.

ORDER

1. Application Exh.175 is allowed as follows.
2. Permission is granted to the plaintiffs to produce the document which is mentioned in document list Exh.176 which is in support of their contentions in the interim applications, and plaintiffs want to rely at the time of hearing of the interim applications.

Date : 03/03/2025.

[S. B. Todkar]
Civil Judge, S.D. Karad.