

CNR NO.MHST-0500 0493 2008
IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, KARAD
ORDER BELOW EXH.134 IN R.C.S.No.188/2008

Mr. Ashok Rajaram Patil	...Plaintiff.
<i>Versus</i>	
1. Mr. Jaywant Rajaram Patil & Anr.	...Defendants.

Advocate Mr. J. D. Ingawale for the plaintiff.

Advocate Mr. A. T. Ghate for the defendants.

Coram : S. B. Todkar,
C.J.S.D. Karad.
Date : 06/03/2026

ORAL ORDER :

This is an application filed by the power of attorney holder of the plaintiff for bringing the legal heirs of the deceased defendant No.1 on record under order XXII rule 4 of the Code of Civil Procedure, 1908.

2. Perused the application and common say at Exh.145. Heard both the sides.

3. As per the contents of present application the plaintiff has filed suit against the defendants for partition and perpetual injunction. Defendant No.1 expired on 22/11/2024 living behind him Smt. Aasha Jaywant Patil, Shri. Charan Jaywant Patil, Smt. Sangita Sunil Patil, Ku. Gitanjali Sunil Patil and Ku. Onkar Sunil Patil as his legal heirs. After the death of the defendant No.1 right to be sued survives against his heirs. Suit is for partition. Therefore, it is necessary to bring the legal heirs of the deceased defendant No.1 on record. Hence the application.

4. It appears from the record that, the plaintiff has filed suit against the defendants for partition, separate possession and

perpetual injunction etc. on the grounds specifically mentioned in the plaint. After service of writ of summons defendant No.2 appeared before Court and filed his written statement at Exh.33, defendant No.1 filed his written statement at Exh.50 and his counter claim at Exh.75. Court has framed issues at Exh.34 on 15/01/2010 and framed additional issues on 08/04/2015. Thereafter plaintiff has filed his affidavit in chief. During pendency of suit defendant No.1 Jaywant Rajaram Patil expired on 22/11/2024. The power of attorney holder of the plaintiff viz. Mrs. Kusum Ashok Patil at Exh.135 on oath has stated that defendant No.1 expired leaving behind him Smt. Aasha Jaywant Patil, Shri. Charan Jaywant Patil, Smt. Sangita Sunil Patil, Ku. Gitanjali Sunil Patil and Ku. Onkar Sunil Patil as his sole legal heirs. After the death of defendant No.1 right to be sued survives against the remaining defendants as well as the legal heirs of the deceased defendants. More over in partition suit all parties- both plaintiffs and defendants are considered co owners in the property. Defendants can claim their share in the written statement (acting as a plaintiff). The legal heirs of deceased defendant No.1 are the proper and necessary parties. For the just decision of suit on merit the presence of the legal heirs of deceased defendant No.1 is necessary and without them no effective or complete decree can be passed by the Court in their absence. Therefore, I found substance in the submission made in the present application. Hence, I proceed to pass the following order.

ORDER

1. Application Exh.134 is allowed.

2. Permission is granted to the plaintiff to insert the words 'deleted since deceased' in front of the name of defendant No.1 in the title cause of the plaint.
3. Permission is granted to the plaintiff to insert the name of Smt. Aasha Jaywant Patil as defendant No.1a, Shri. Charan Jaywant Patil as defendant No.1b, Smt. Sangita Sunil Patil as defendant No.1c, Ku. Gitanjali Sunil Patil as defendant No.1d and Ku. Onkar Sunil Patil as defendant No.1e in the title cause of the plaint.
4. Plaintiff is here by directed to carry out necessary amendment on or before 14 days in the title cause of the plaint and supply copies of amended plaint on record.
5. After receiving of copies of amended plaint on record issue suit summons to the added defendants.

Date : 06/03/2026.
Place-Karad.

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