

Order below Exh.49 in RCS No.3/2017

01. This application is made by plaintiff to amend plaint by taking legal heirs of deceased Lalasaheb Jagannath Jagdale on record in view of O.VI Rule 17 of CPC r/w.22 Rule 4 (1) of the CPC.

02. Read say of Ld. Advocate for the defendants No.1 to 3 & 5.

03. Heard to the both sides.

04. Ld. Advocate for the plaintiff argued that defendant No.7 died on 07.07.2020, therefore, for proceeding further legal heirs of defendant No.7 be taken on record. hence, he prayed to allow the application.

05. Per contra, Ld. Advocate for the defendants No.1 to 3 & 5 argued that application is not tenable, hence, he prayed to reject the application.

06. I have perused the proceeding, it reveals that defendant No.7 filed consent written statement with the pleading of plaintiff and prayed to decree the suit. Thus it reveals that defendant No.7 is not contesting the suit. Even prayer clause of the plaint, reveals that declaration has been sought against defendants No.1 to 5 and relief has been claimed not only in favour of plaintiff but also in favour of defendant No.7. Thus, to protect the right of defendant No.7 his legal heirs are necessary on record.

07. Defendant No.7 died on 07.07.2020. hence, period of

pandemic can be excluded for condoning the delay, hence, application deserves to be allowed subject to costs to be paid to the defendant No.1 to 5. Hence, I pass the following order:

ORDER

1. *Application at Exh.49 is hereby allowed.*
2. *Plaintiffs shall make amendment in the plaint as prayed in the application by taking legal representatives of defendant No.7 on record till next date, on costs of Rs.150/- to be paid to the defendants No.1 to 5.*
3. *On carry out the amendment, plaintiff shall sew the copies of amended plaint on contesting defendants No.1 to 5.*

Date: 08.03.2021
Dahiwadi

(R. R. Thorat)
Jt. Civil Judge Jr. Div, Dahiwadi.