

MHST070000381996



**Order Below Exh. 180 in R.C.S. 438/1996
(Dattatray Vithoba Kharade Vs. Shivaji Baburao Salunkhe)**

1. This application is filed by the plaintiff for bringing legal representatives of deceased defendant No. 2 on record. It is contended that, during pendency of the suit the defendant No. 2 died on 03/12/2024. Legal representatives of deceased defendant No. 2 is necessary party in the present suit. Hence, the plaintiff prayed to allow the application and bring Legal representatives of deceased defendant No. 2 on record.

2. Other side opposed the application by filing say. It is contended that, the application is not filed by the heir of the deceased defendant No. 2. therefore, this application is not maintainable. Therefore, other side prayed to reject the application.

3. Heard both sides. Learned counsel for the plaintiff submits that, the proposed defendant is legal representative and necessary party to the suit. He therefore, prayed to allow the application. Per contra, learned counsel for defendants submits that, proposed defendant is not legal heir. Therefore, this application is not maintainable. He therefore, prayed to reject the application.

4. Perused the record. Record shows that, the defendant No. 2 died on 03/12/2024. The plaintiff has brought on record copies of the 8A extract of the property which shows that, the proposed defendant is legal representative of deceased defendant No. 2. Considering the nature of the suit, right to sue survives. Therefore, there is no force in the submission advanced on behalf of defendants. In such circumstances, in the interest of justice, application deserves to be allowed. In the result, I pass the following order.

ORDER

1. The application at Exh. 180 is allowed.
2. The Legal Representative of the deceased defendant No. 2 as mentioned in the body of the application is brought on record.
3. The plaintiff to carry out necessary amendment within 14 days from today and place on record copies of amended plaint.
4. If the amendment as aforesaid is carried out, issue summons to the added defendant.
5. Note of this order be taken in the suit register.

Date : 31/07/2025.

(Prashant P. Kulkarni)
4th Jt. Civil Judge Junior Division,
Karad.