

Order Below Exh. 158 in R.C.S. No. 64/2003.

This is an application filed by the applicant to bring him on record as legal representatives of deceased plaintiff no. 1 Ramchandra Bhikhu Sakhunde.

2. Perused the application and say of defendant no. 1 filed at Exh. 172. Heard learned advocate for both sides. Perused record. It appears that, present suit is for partition and separate possession of suit properties. Pleadings of parties shows that, suit properties are ancestral and joint family properties of parties. During the pendency of the suit plaintiff no. 1 is died on 14/01/2018. The said fact not denied by the other sides. Considering the nature of this suit after the death of plaintiff no. 1, his all legal representatives got right in the suit properties. Therefore, they are necessary parties and required to be brought on record. However, by the present application applicant prayed to bring himself alone as a legal representatives of deceased plaintiff no. 1.

3. Defendant no. 1 in his say raised objection stating that, deceased plaintiff no. 1 is left behind having 3 daughters and the son that is present applicant. Therefore, as per the application only son of the plaintiff no. 1 cannot be permitted to bring on record as as legal representatives. Learned advocate for the applicant in his argument not denied the facts regarding daughters of plaintiff no. 1. He argued that, by the present application he prayed to bring present applicant as a representatives of his family.

4. In this circumstances considering the nature of the suit, after the death of plaintiff no. 1 his all legal representatives have got right in the suit properties. Therefore, they are required to be brought on record as per the provisions contemplated order XX II of Code of Civil Procedure.

5. Admittedly, the present application is moved by the applicant at belated stage. But only on the point delay application of the applicant cannot be rejected. Further by the present application the applicant prayed to bring him alone as a legal representatives of deceased plaintiff no. 1. But aforesaid discussion shows that daughters of deceased plaintiff no. 1 are also necessary parties to the suit. Therefore, it would be proper and lawful to issue direction to the present applicant and other plaintiffs to bring on record all legal representative of deceased plaintiff no. 1 including daughters. Hence, I proceed to pass following order.

Order

1. Application is hereby partly allowed and abatement order against plaintiff no. 1 is set aside.
2. Applicant/Plaintiffs are hereby directed to make necessary amendment in the plaint to bring on record all legal representative of deceased plaintiff no. 1 and file amended copy of plaint on record.
3. Parties to note.

Date 12/03/2021
Koregaon.

(Jt. Civil Judge. Jr. Div., Koregaon.)