

ORDER BELOW EXH. 28 IN R.C.S. NO.3/2020

The application is filed by the advocate for plaintiff for bringing the legal representative of deceased plaintiff on record.

2 Perused the application and say. Heard both sides. The learned advocate for defendant filed say and objected the application on the ground that no just and proper reason has been mentioned in the application. So, she prayed to reject the application.

3 As per contention in the application date of death of plaintiff is 26.10.2020 and the application is filed on 26.08.2022 i.e beyond the period for bringing legal representative of deceased as prescribed by the law of limitation.

4 The suit is for perpetual injunction. It is contention in the plaint that suit property is self acquired property of himself and defendant is obstructing his possession over the suit property.

5 The deceased plaintiff is survived by a daughter in law namely, Sunanda Sundar Chalake. She is the legal heir of the deceased plaintiff. From the nature of the suit it appears that the right to sue survives.

6 The application is supported by affidavit stating that during the pendency of the suit the plaintiff died. The applicant has become legal heir of deceased plaintiff by Will. So, it is necessary to bring her on record.

7 In order to enable the court to effectively and completely adjudicate upon and settle all questions involved in the suit it is necessary to allow the application for bringing legal representative of deceased plaintiff on record.

8 Thus, considering all above aspects it is necessary in the interest of justice to allow the application. In result, I pass the following order.

ORDER

1. The application is allowed.
2. The legal representative of the deceased plaintiff is allowed to bring her on record of the suit on or before next date.
3. The legal representative of the deceased plaintiff is directed to amend the plaint accordingly and furnish amended copy thereof.

Patan
Dt. 07.01.2023

(P. D. Bhirde)
2nd Jt. Civil Judge, J.D.,Patan.