

**ORDER BELOW EXH. 15 IN R.C.S. No. 173/2025.**

**01.** Present application has been filed by the plaintiff for deleting names of defendant No.2 Ramchandra Bajirao Sawant and defendant No.3 Anandrao Bajirao Sawant from title clause of plaint and for bringing legal representative of deceased defendant Nos.2 and 3 on record in view of Order 1 Rule 10 of the Code of Civil Procedure.

**02.** Perused the application and say. Heard Ld. Advocates appearing for both the sides. Plaintiff has contended that, he is tenant in suit property and defendants are owner of suit property. Defendant No.1 with the help of his son and son of defendant No.5 is trying to oust him forceably from the suit property. Therefore, the present suit came to be filed by plaintiff against defendants. Plaintiff impleaded all owners of suit property as per record of city survey of property in question.

**03.** As per contentions of plaintiff that, suit summonses were issued to the defendants. Thereupon, plaintiff got knowledge that the defendant No.2 Ramchandra Bajirao Sawant and defendant No.3 Anandrao Bajirao Sawant have been passed away at the relevant time of filing of suit. Plaintiff contends that, he did not have knowledge about defendant No.2 and 3 have been demised at the time of filing of present suit. Therefore, he moved this application to delete the name of defendant No.2 and 3 from the title clause of plaint.

**04.** Plaintiff also wish to add legal representatives of deceased

defendant Nos. 2 and 3 as a parties in the present claim. Plaintiff also contends that, he has not shown lethargic approach in present matter. Therefore, it is necessary to delete the name of deceased defendant Nos.2 and 3 from the title clause of plaint. He also, want to implead proposed parties in present matter as a defendants in claim. He contends that, if application is allowed it would not cause irreparable loss to other side. Therefore, he prayed to allow the application.

**05.** On the other hand, defendants resisted the present application by filing their say vide Exh.22 on grounds that, the present application is not tenable in the eyes of law. The cause of action did not arise for filing of present claim. Plaintiff already got knowledge about death of defendant Nos. 2 and 3. The names of legal representatives of deceased defendant Nos. 2 and 3 have been mutated to the record of rights of suit property. With these contentions defendants prayed application be rejected.

**06.** On perusal of record it appears that, suit summonses/notices were issued to defendant Nos. 2 by name Ramchandra Bajirao Sawant and Anandrao Bajirao Sawant on 08.07.2025. Bailiff report vide Exh.10 shows that, defendant Nos. 2 and 3 reported to have been died on 08.08.2021 and 05.11.2020. Therefore, summonses/notices could not be served to the defendant Nos. 2 and 3. According to plaintiff, he did not have knowledge of death of defendant Nos. 2 and 3 at the time of filing of suit. Inadvertantly, plaintiff impleaded them as a defendants in a present claim. Now, by this application plaintiff want to delete names of defendant Nos. 2 and 3 from the title clause of plaint. Plaintiff also wish to bring on record

legal representatives of defendant Nos. 2 and 3. Thus, it is well settled principle that, plaintiff is “dominus litis.” Therefore, plaintiff has the right to choose and array parties involved and to seek the remedies against them. In present claim, defendant Nos. 2 and 3 were owners of suit property. Plaintiff is claiming perpetual injunction against defendants. Now, defendant Nos. 2 and 3 were no more. Therefore, in order to decide real controversy involved between the parties it is needed to bring on record proposed legal representatives of defendant Nos. 2 and 3. Also, it is required to delete the names of defendant Nos. 2 and 3 from the title clause of plaint. The present application is supported by affidavit of plaintiff. He also clarified in application that, he did not having knowledge about death of defendant Nos. 2 and 3. Thus, reasons assigned to the application appears to be genuine. Relationship between deceased defendant Nos. 2 and 3 and proposed parties is not disputed. Therefore, if application allowed it would not be prejudiced to the other side. But, it would help to avoid creating multiplicity proceeding and complications in present suit. Therefore, in view of all these reasons, in the interest of justice application deserves to be allowed. Hence, I find no any hindrance to allow this application as prayed by the plaintiff. In the result, I proceed to pass following order :-

### **ORDER**

- a) Application is allowed subject to payment of cost of Rs.1,000/- to the other side on or before next date.

- b) Plaintiff is permitted to delete the names of defendant Nos. 2 and 3 from the title clause of plaint.
- C) Plaintiff is also permitted to bring legal representatives deceased defendant Nos. 2 and 3 on record.
- d) Plaintiff to carry out amendment within 14 days from this order.
- e) He is directed to file the amended copy of plaint within said period.

(order dictated and pronounced in open Court)

Sd/-

(Smt. S. R. Shinde)

Jt. Civil Judge Junior Division

Wai.

Wai.

Date: 25/07/2025.