

MHST160010542016



Regular Civil Suit No. 170/2016
Prabhakar Vs. Rajendra

Order Below Exh.110
(Passed on 27th March, 2025)

This is an application filed by the plaintiff for bringing legal representatives of deceased defendant No.5 Chatura Dashrath Jadhav. The plaintiff submitted that the suit has been filed for the relief of partition and injunction. On 13.05.2024, defendant No.5 Chatura Dashrath Jadhav died. She is survived by the proposed legal representatives 5A Harishchandra Dashrath Jadhav and 5B Sunil Dashrath Jadhav. Except them, she is not having any legal representatives. The application has been filed within limitation. No prejudice will be caused to the other side. Hence, the application be allowed.

2. The proposed legal representatives failed to file their reply to the present application. Therefore, on 27.03.2025. it is ordered to proceed without their say. Defendant No.1 & 2 have replied the application by filing their say at Exh.118. They resisted the application mainly on the ground that all legal representatives of deceased defendant No.5 have not been included in the application.

3. Perused the application and say alongwith the entire record. Heard both the sides. The present suit has been filed for perpetual injunction. Issues have been framed on 08.11.2021 and thereafter, the matter was fixed for evidence of the plaintiff. Meanwhile

defendant No.5 Chatura Dashrath Jadhav died. Due to which, the present application came to be filed. The application has been supported by the affidavit of plaintiff. The original death certificate has also been filed on record at Exh.114. Its perusal shows that it was issued on 14.08.2024. Having account to these facts, it is clear that even after death of deceased defendant No.5, right to sue survives against her legal representatives. Though, the defendants have submitted that other legal representatives are not included in the application, but they have not mentioned specifically the names of those other legal representatives. Moreover, they have not raised an issue of any delay in filing the present application. In view of this discussion, the present application deserves to be allowed. Hence the order:

ORDER

1. The application (Exh.110) is hereby allowed.
2. The plaintiff shall bring the legal representatives of deceased defendant No.5 on record by incorporating their names alongwith addresses in the plaint till next date.
3. The plaintiff is also directed to file amended copy of the plaint on record.

Dictated and pronounced in the open Court.

Place : Wai.
Date : 27.03.2025.

(R.M. Bhende)
Jt. Civil Judge Junior Division,
Wai, Dist. Satara.