

**R.C.S. 307/2017**

**Shrusthi & Ors Vs. Popat &  
Ors.,**

**ORDER BELOW EXH. 58**

Plaintiffs filed this instant application under Order VI, Rule 17 of the Code of Civil Procedure for making amendment in the plaint. I read an application and the reply of defendants at Exh. 59. Perused the entire record.

2. Plaintiffs filed this instant application and submitted that, defendant no. 1 Popat Krushna Mokale died on 29.11.2018. Defendant no. 3 Sudhakar Popat Mokal died on 25.08.2019. Defendant no. 1 Popat Krushna Mokale is having legal heirs i.e. defendant no. 2 to 5 which are already parties to the suit. Defendant no. 3 is having legal heirs i.e. plaintiff no. 1 to 3 and they are already parties to the suit. Therefore, plaintiffs want to insert the word 'deceased' through LR's of defendant no. 2 to 5 in front the name of defendant no.1. Plaintiffs also want to insert the word 'deceased' LR's of plaintiff no. 1 to 3 in front of the name of plaintiff no.3. No any prejudice will be caused to defendants, if such amendment is allowed. Therefore, plaintiffs prayed to allow to make such amendment in the plaint.

2. On the contrary, defendants filed the reply and opposed to this application, on the ground that, plaintiffs have not moved such application within the period of limitation and therefore, this

application is not maintainable and prayed to reject the application.

3. On perusal of record, it appears that, plaintiffs filed this suit for partition and separate possession of suit property. Defendant no.1 and 2 filed the written statement at Exh. 23. The suit is proceeded ex parte against defendant no. 5, 8, 9, 7 and 12 vide order below Exh. 1 dated 07.12.2022, 03.11.2023 and 01.04.2024. Issues have not been framed till today. The trial of the suit has not be commenced till today. The plaintiff only want to insert the word deceased in front of the name of defendant no. 1 and 3 and therefore, no prejudice will be caused to defendants, if the application is allowed. In this situation, in my opinion, plaintiffs are entitled to make such amendment. I found substance in the application. Accordingly, I proceed to pass the following order.

### **ORDER**

1. The application allowed.
2. plaintiffs are permitted to make necessary amendment in the plaint as claimed till next date, otherwise this application automatically stands rejected.
3. Plaintiffs are further directed to make necessary amendment in the plaint and to file the amendment copy of it till next date.
4. Both the parties are directed to take note of it.

Vaduj  
Date: 19.11.2024

( D.D. Fulzele)  
Civil Judge Senior Division, Vaduj.