

**R.C.S. No. 259/2018
Banubai Vs.
Shakuntala & Ors.**

COMMON ORDER BELOW EXH.19, 21 and 23.

Read an application. No reply filed by the defendants. Perused the record. Heard the learned counsel for the plaintiff Adv. Shri. D.L. Pawar. The defendant No.1 to 3 and their counsel are absent when called. The plaintiff is also absent when called.

2. The plaintiff filed these applications and submitted that during the pendency of suit, the plaintiff Banubai Pawar died on 29.07.2020. Prior to death of the plaintiff, the plaintiff executed registered will deed on 17.10.2010 in favour of her grandson namely Satyawar Sayajirao Pawar, Vikram Sayajirao Pawar, Rahul Sayajirao Pawar and Dhiraj Chandrakant Pawar. According to the learned counsel for the plaintiff, the aforesaid grandsons are the legal representatives of the deceased Banubai Pawar. There is delay to file these application to bring the legal representative. Therefore, the learned counsel for plaintiffs prayed to condone delay, to set aside abatement order and to grant permission to bring the aforesaid legal representatives on record.

3. On the contrary, defendants have not filed reply to these applications. On perusal of record, it appears that the plaintiff filed this suit against all defendants for removal of encroachment and the possession of encroached land of the suit property i.e. the agricultural land bearing Gat

no.1218 situated at village Umbarde, Tal.Khatav, Dist. Satara. The defendant 1 to 3 filed written statement at Exh.13. However, issues have not been framed till today.

4. The learned counsel for the plaintiff orally submitted that the deceased plaintiff is having four sons and two daughters. However, they are not interested in respect of the suit property. The deceased plaintiff executed and registered the will deed on 17.10.2010 in favour of aforesaid grandsons of the deceased plaintiff and bequeathed her right in favour of them. According to plaintiff, the aforesaid grandsons are the legal representative of the deceased plaintiff vide Section 2 (11) of the Code of Civil Procedure. Therefore, the learned counsel for plaintiff prayed to grant permission to add aforesaid grandsons as of legal representative of the deceased plaintiff.

5. There is no objection on the part of defendants or any other persons to these applications. Under these circumstances, the aforesaid grandsons of the deceased plaintiff is required to be add as of legal representative of the deceased plaintiff Banubai Pawar. With this discussion and observation, I proceed to pass the following order.

ORDER

- 1 The application is allowed.
2. Abatement order be set aside and the delay be condoned and plaintiffs are permitted to add to

aforesaid grandsons of deceased Banubai Pawar as of plaintiffs (I.e legal representative of deceased plaintiff) and to make necessary amendment in the plaint till next date, otherwise these applications shall automatically stands rejected.

3. The plaintiff is further permitted to file amended copy of plaint till next date.
4. Both the parties are directed to take note of it.

Vaduj
Date: 29.11.2022

(D.D. Fulzele)
Civil Judge Sr.Dn., Vaduj