

MHYA210028832017



Order passed below Exh.25 in S.C.C. No.2133/2017  
M/s Nagarwala Enterprises through Narendra Shantilal Nagarwala  
Vs. Balu Dadaji Chede

The complaint, under Section 138 of the Negotiable Instruments Act, 1881, is pending for adjudication. The complaint is lodged by the Nagarwal Enterprises, which is a Firm, through its one of the partner namely Narendra Shantilalji Nagarwala. During the pendency of the proceeding, Narendra Nagarwala is died on 17.01.2023. The living partner namely Tushar Narendra Nagarwal wants to continue the proceeding. Hence, this application.

2. Perused the application. The respondent/accused strongly opposed the application on the count of lack of due authorization or competency to continue the proceeding. Thereby, prayed for rejection of application. Heard both the Advocates on behalf of respective parties.

3. The complaint is lodged to take the cognizance and punish the accused for the offence of dishonor of cheque issued by the accused in favour of the complainant. The complainant is not the living person. It is a Firm. The proceeding cannot be proceeded in absence of living person to represent the firm. The existing partner of the firm, who lodge the complaint, is no more. Therefore, continuation of proceeding needs representation of the suitable person. The proposed applicant is the registered partner in the firm. The copy of partnership deed is placed on record alongwith **Exh.28**.

The living representative requires to continue the proceeding. Therefore, represented person needs replaced by living another partner in Firm and same may be justifiable. Mere, for death of represented person, the complaint by the Firm cannot be thrown into trash. The application deserves to be allowed. Hence, I pass following order.

### **Order**

1. The application (Exh.25) is hereby allowed.
2. The proposed representative namely Tushar Narendra Nagarwal, is permitted to continue the proceeding on behalf of the Firm.
3. The application Exh.25 is disposed of, accordingly.

Place: Wani  
Date : 05.06.2024

(Sudhir M. Bomidwar)  
Judicial Magistrate F.C.,  
Wani.