

:1: Ex. 34 RAD 1268 of 2018

MHSCA20025352018

IN THE COURT OF SMALL CAUSES AT MUMBAI

ORDER BELOW EXH.34

IN

R. A.D. SUIT No. 1268 OF 2018

1. Mr. Farhan Hasan Navrangi and ors. .Plaintiffs
Vs.
1. Mr. Matin Yusuf Navrangi & ors. ..Defendants

Coram : Shri. S.V.Deshmukh,
Judge.
C. R. No. 12.
Date :20/12/2021

ORDER :-

1) This is an application for substitution of legal representative of deceased defendant No. 1. Notice was issued to proposed legal representative. In spite of service of notice by registered A.D. the proposed legal representatives have failed to appear and file say. Other defendants have also failed to file say. Application is pending since long. It is just and proper that it is proceed further without say.

2) Heard learned advocate for plaintiff and learned advocate for defendant Nos. 10 to 13. Objection is raised by advocate that application is not within time. Learned advocate for plaintiffs submits that pursis was filed by defendants about death of defendant no.1 only in February 2021. Application is filed immediately thereafter. The plaintiffs had no knowledge about the death.

3) The suit is for declaration of tenancy. Deceased defendants are allegedly heirs of previous tenants. Cause of action

:2: Ex. 34 RAD 1268 of 2018

survives upon his death. In absence of knowledge of death delay if any deserves to be condoned. Application is well within limitation from the date of knowledge. The contentions that proposed defendants are the legal representative of deceased is not denied. It is just and proper that they are substituted as LR of defendant No.1.

4) Amendment in pleadings regarding the death of defendant no.1 and his legal representative is also prayed. It is mere formal. It is just and proper that proposed amendment is allowed. Hence, the following order.

: O R D E R :

1. Application Exhibit- 34 is allowed.
2. Cause title of the plaint and pleadings be amended in terms of schedule annexed with the application on or before next date.
3. Costs in cause.

MUMBAI
Date : 20/12/2021

(S. V. Deshmukh)
Judge, C.R. No.12

Order dictated : 20 /12/2021
Order Transcribed on : 22/12/2021
Order checked and signed on : 24/12/2021

-