

**ORDER BELOW EXH.31 IN REGULAR CIVIL APPEAL NO. 27/2022**  
**Dattatraya Ramchandra Sargar & Ors. V/s. Rajaram Ramchandra Sargar.**

1. This is an application filed on behalf of appellants for bringing the legal heirs on record of deceased respondent No.1 Rajaram Ramchandra Sargar who died on 18/05/2024. According to appellants after the death of respondent No.1 it is necessary to bring on record his legal heirs. It has been contended on behalf of appellants that respondent No.1 died living behind wife, 2 sons and 2 daughters.
2. The appellants have given the names, ages, address of the legal heirs of deceased respondent No.1 claiming that the proposed amendment is of formal in nature and there would not be any change in the appeal due to amendment. As per appellants due death of respondent No.1 it become necessary to amend the title of appeal memo.
3. It is matter of record that the notices have been issued to the legal heirs of deceased respondent No.1. They appeared, filed Vakalatnamas alongwith address pursis and given no objection for substituting their names in the place name of deceased respondent No.1 stating that they have already filed Vakalatnama and thereby appellants may directed to implead them as parties.
4. Perused the material available on record. So far as

present appeal is concerned, the defendant Nos.2 and 3 being aggrieved and dissatisfied with the judgment and decree passed in Regular Civil Suit No.48/2019 by the learned Civil Judge Senior Division, Malshiras on 29/07/2022 has filed present appeal. After perusal of title of appeal memo it reveals that the appellants are nothing but original defendant Nos. 2 and 3, respondent Nos.1 and 2 are original plaintiffs whereas respondent Nos.3 to 9 are remaining defendants before the learned Trial Court. So prima-facie it is crystal clear that the original defendant Nos.2 and 3 have challenged the judgment and decree wherein deceased Rajaram Ramchandra Sargar was the original plaintiff who has filed suit for partition, separate possession and mesne profit. So in the circumstances the presence of the legal heirs of original plaintiff No.1 i.e. present respondent No.1 is necessary.

5. As mentioned supra, the original suit is filed for partition and possession and thereby when right to sue survives after the death of respondent No.1, his legal heirs should bring on record. After perusal of record it reveals that the advocate on record of respondent No.1 has filed death certificate of Rajaram Ramchandra Sargar and thereby the appellants got knowledge. Then the appellants have filed two applications I.e application at Exh.29 for condonation of delay and present application for bringing the legal heirs on record of deceased respondent No.1. The application at Exh.29 allowed and thereby delay condoned. As stated supra, the

deceased respondent No.1 died living behind wife, 2 sons, 2 daughters and thereby their presence is necessary in present appeal. So their names should be recorded by making necessary amendment. Hence I proceed to pass the following order.

**ORDER**

- 1] Application Exh. 31 is allowed.
- 2] The advocate on record of appellants is allowed to bring on record the names of the legal heirs of deceased respondent No.1 Rajaram Ramchandra Sargar by making necessary amendment in the title of appeal memo.
- 3] Amendment be carried out within 14 days from today and appellants to submit amended appeal memo as well as copies of the same for the purpose of respondents.
- 4] Cost of application is cost in cause.

Dt:- 01/03/2025.

(R.V. Tamhanekar)  
District Judge-1, Malshiras.

**CERTIFICATE**

I affirm that the contents of this PDF file Order /Judgment are same word to word, as per the original Order /Judgment.

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|----------------------------------------------------|---|----------------------------------|
| Name of Stenographer                               | : | A.S.Yadav (Stenographer Grade-1) |
| Court                                              | : | District Judge-1, Malshiras.     |
| Dated                                              | : | 01/03/2025.                      |
| Judgment /order signed by the Presiding Officer on | : | 01/03/2025.                      |
| Judgment / order uploaded on                       | : | 01/03/2025.                      |

