

ORDER BELOW EXH.32 IN R.C.S. NO.485/2025

This application is filed by the applicants under Order XXII Rule 3 of the Code of Civil Procedure, 1908, seeking their impleadment as legal representatives of deceased original plaintiff Madhav Bhiku Kudle. It is contended that the original plaintiff expired on 05/04/2026 and that the right to sue survives in favour of the applicants, who are his legal heirs and representatives. Hence, the applicants have prayed that they be brought on record in place of the deceased plaintiff.

2. The defendants have resisted the application by filing their say. It is contended that in some documents the name of the original plaintiff is mentioned as “Madhav”, whereas in some documents it is mentioned as “Madho”, and therefore, according to the defendants, there is no clear document establishing the identity of the deceased plaintiff. On this ground, rejection of the application is sought.

3. The applicants have placed on record an affidavit stating that Madhav Bhiku Kudle and Mahadev Bhiku Kudle are one and the same person and that the said deceased was the father of applicant Nos. 1 to 3. The death certificate produced on record also shows that the original plaintiff expired on 05/04/2026.

4. At this stage, the Court is required to consider whether the applicants are the legal representatives of the

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deceased plaintiff and whether the right to sue survives in their favour. The objection regarding variation in the name of the deceased in different documents pertains essentially to his identity and is not sufficient, by itself, to reject the application when the applicants have specifically explained the discrepancy by filing an affidavit. The question of identity, if seriously disputed, can be considered on the basis of evidence at the appropriate stage and need not be conclusively decided while considering an application under Order XXII Rule 3 of the CPC.

5. The material placed on record, particularly the death certificate and the affidavit filed by the applicants, prima facie establishes that the original plaintiff has expired and that the applicants claim through him as his legal heirs. No sufficient material is placed on record by the defendants to show that the applicants are not the legal representatives of the deceased plaintiff. Further, the right to sue in the present proceedings appears to survive in favour of the legal representatives.

6. In view of the above facts and circumstances, and in order to enable the Court to adjudicate the dispute effectively on its merits, the application deserves to be allowed.

ORDER

1. The application under Order XXII Rule 3 of the Code of Civil Procedure, 1908 is allowed.
2. Applicant Nos. 1 to 3 are permitted to be brought on record as the legal representatives of deceased original plaintiff Madhav Bhiku Kudle.

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3. Necessary amendment be carried out in the cause title accordingly.

(Dictate and Pronounced in open Court.)

(A.G.Tamboli)

Date:- 18.08.2026.

3rd Jt. Civil Judge, J.D., Ghodnadi.