

**IN THE COURT OF SMALL CAUSES AT MUMBAI****ORDER BELOW EXHIBIT 40****IN****R.A.E. SUIT NO.762/1168 OF 2009****(CNR : MHSCA2-006670-2009)**

Smt. Kshama Haresh Mehta and ors.

...Plaintiffs

V/s.

Zaver Iswar (deleted)

Smt. Bhikh Babu Solanki and ors.

...Defendants

Shri N. H. Nathani, advocate for the plaintiffs

**Coram: Rutuja S. Bhosale,****Judge,****C. R. No.15****Dt : 17.11.2022****ORAL ORDER:-**

By the present application, plaintiff No.2 prays to delete the name of defendant No. 1(b) and to allow him to carry out amendment in the plaint.

2. As per the plaintiffs, plaintiff No. 6 is the Trust duly registered with the Charity Commissioner and the plaintiff Nos. 1 to 5 were the Trustees of the said Trust. Defendant by filing pursis at exh. 37 informed about the death of defendant No. 1(b) namely Shri Naresh Babu Solanki who expired on 31.03.2019. At the same time plaintiff No. 4 also expired. On last date 21.07.2022 the advocate for the defendant

was brought to the knowledge of the plaintiff that deletion of defendant No. 1(b) is pending. Therefore, plaintiffs be permitted to amend the plaint by deleting the name of defendant No.1(b) and add the name of the legal heirs of the defendant No.1(b). Hence this application.

3. Defendant No.4 has given say over leaf.

3. Perused the application and say. Heard both learned advocates at length.

4. Death certificate is annexed with the application. As such, there appears no substance in the objection of the defendants. Therefore, it will be appropriate to allow the plaintiffs to delete the name of defendant No. 1(b). Moreover, the proposed amendment is of formal nature. No prejudice is likely to be caused to the defendant if the proposed amendment is allowed. Hence, the following order :

### **ORDER**

1. The application is allowed.
2. The plaintiffs shall carry out amendment as per schedule within 14 days from the date of this order.

**[Rutuja S. Bhosale]**  
**Judge,**  
**C. R. NO.15**

**Dt: 17.11.2022**

order dictated on : 17.11.2022  
order checked & signed on : 17.11.2022