

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

SUIT NO. 3688 OF 1996

Umarani D. Poddar	.. Plaintiff
Vs.	
Shantidevi S. Jhuria	
& Ors.	.. Defendants

None for plaintiff.

Mr.K.H. Mody for defendant-Jhuria.

Mr.Harshal Manik i/b Res Legal for defendant Nos.2(a) to 2(c).

Mr.R.R. Yadav for defendant No.5.

Mr. Sagar Patil for MCGM.

CORAM : N.J. JAMADAR, J.

DATE : 5TH NOVEMBER 2019

P.C.

- 1.** Heard the learned counsels for the parties.
- 2.** The learned counsel for the defendant No.5 submits that the plaintiff-Umarani Durgaprasad Poddar has expired on 29th May 2017. The deceased plaintiff was the wife of the defendant No.5. The legal representatives of the defendant No.5 have not been brought on record. In fact, Chamber Summons No.892 of 2017, taken out by one Shivangi Poddar-Patel, the daughter of the plaintiff and the defendant No.5, has subsequently been withdrawn. The defendant No.5-Durgaprasad Ramniwas Poddar does not intend to prosecute the suit in the capacity of the legal representative of the deceased plaintiff. The suit, thus, stands abated.

3. Shri K.H. Mody, the learned counsel for the defendant-Jhuria submits that the legal representatives of the deceased plaintiff are not coming forward to prosecute the suit for the sole reason that they would be required to pay Court fees for the huge monetary claim. It was further submitted that during the pendency of the suit, various proceedings have been taken out by the plaintiff and, therefore, the defendants be properly compensated.

4. Be that as it may, as the sole plaintiff has expired on 29th May 2017 and no steps have been taken to bring the legal representatives of the deceased plaintiff on record, within the stipulated period, and even the Chamber Summons taken out for impleading the daughter of the plaintiff has been withdrawn, and the defendant No.5, who happens to be the husband of the deceased plaintiff, does not desire to prosecute the suit, the suit stands abated.

5. Thus, the suit stands dismissed as abated.

6. In view of the dismissal of the suit, pending chamber summons and notice of motion, if any, do not survive and accordingly stand disposed of.

[N.J. JAMADAR, J.]