

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 740 OF 2019
IN
SUIT NO. 2531 OF 2011

Pushpa B Thakur & Ors	...Plaintiffs
<i>Versus</i>	
Raju N Thakur & Ors	...Defendants

Mr JP Sen, Senior Advocate, with Piyush Raheja, Vishesh Malviya,
i/b M/s. Rashmikanth & Partners, for the Plaintiffs.
Mr Roopesh Jaiswal, i/b Navin Tiwari, for Defendant No. 1 and for
the Applicant in NMS/740/19.

CORAM: G.S. PATEL, J
DATED: 1st April 2019

PC:-

1. The original 2nd Defendant was one Radha Thakur. She died in November 2018 and apparently left a Will dated 22nd April 2018. She named one Malti Thakur as an executor of this Will. On 12th February 2019 when the Suit was before me, I pointed out to Mr Raheja, then appearing for the Plaintiffs, that the correct amendment would be to join all the heirs of Radha Thakur. His instructions at that time were to say, ill-advisedly, that the Plaintiffs sought to join only Malti as the only executor in this Will. The Defendants had done what they needed to do by pointing out need

to join the heirs. I said that the Plaintiffs would have to accept the consequences and I would not allow any application for amendment by the Plaintiffs to join the other heirs of the deceased 2nd Plaintiff, Radha.

2. It seems that the Defendants have perhaps unwittingly come to the aid of the Plaintiffs, because eight days later they filed this Motion. Prayer (a) of course seeks a dismissal of the suit but prayer (b) seeks a direction to the 1st Plaintiff to join all the heirs of the 2nd Defendant. This means that the amendment application is not being made by the Plaintiff but is at the instance of the Defendants and the Plaintiffs are only submitting to orders of this court. For the Plaintiffs, this is fortuitous.

3. There will be, therefore, an order in terms of prayer clause (b). Malti herself is already an heir. So is the 5th Plaintiff. Two other persons are to be joined and they will be joined as Plaintiffs Nos. 2(b) and 2(c).

4. Amendments to be carried out without need of reverification within a week from today. A copy of the amended title will be served on the Advocates for all the Defendants.

5. The Notice of Motion is disposed of in these terms. There will be no order as to costs.

(G. S. PATEL, J)