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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3753 OF 2022

Navnath P. Motiram Shirale

PETITIONER

VERSUS

Vishwnath P. Ragu Prabhale

RESPONDENT

.....
Mr. Chandrakant V. Thombre, Advocate for the petitioner
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 29th MARCH, 2022

ORDER :

1. This petition impugns order passed by the learned 5th Joint Civil Judge, Junior Division, Beed below Exhibit-61 in Regular Civil Suit No. 156 of 2016, thereby rejecting the application filed by the petitioner – original plaintiff to bring legal representatives of deceased defendant on record.
2. Heard learned advocate for the petitioner at length. Perused the record.
3. Admittedly, the suit is filed by the petitioner against the defendant simplicitor for injunction that the defendant should not disturb the peaceful possession of the petitioner over the suit

property. On account of death of the sole defendant, the cause of action in the suit does not survive. The Trial Court, therefore, was right in rejecting the application filed by the petitioner seeking to bring on record legal heirs of deceased defendant. The Trial Court was justified in holding that it is settled principle of law that action dies with the person and, therefore, on account of death of the defendant, the right to sue or cause of action does not survive.

4. No case is made out by the petitioner to interfere with the impugned order, as the impugned order does not suffer from any illegality or perversity. Writ petition is, therefore, dismissed. The petitioner is entitled to avail remedy as permissible in law, if any grievance of the petitioner remains.

[NITIN B. SURYAWANSHI]
JUDGE