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

INTERIM APPLICATION NO.275 OF 2021
IN
COMS SUIT NO.1436 OF 2018

Sunil Lekhraj Advani & Anr.

...Applicants/
Plaintiffs

Versus

Nirmala Gulab Advani & Ors.

...Defendants

Mr. Rohan Savant, i/b. Mr. Jitendra Jain for the Applicants in IA.
Bernardo Reis, i/b. Priyanka Pandit (A.o.R.) for Defendant Nos.1 to
3.

CORAM : R.I. CHAGLA J

DATE : 17TH OCTOBER, 2022

ORDER :

1. Heard learned Counsel for parties.
2. By this Interim Application, the Applicants are seeking permission to implead themselves as Plaintiffs in place and stead of the original Plaintiff. Amendment is being sought in terms of the schedule annexed to the Interim Application.

3. The Applicant has stated that the original Plaintiff had expired on 30th June, 2020. The original Plaintiff had left behind Will dated 31st July, 2014 bequeathing his assets to his two sons who are Applicants herein in equal proportion. The Applicant / proposed Plaintiff No.1 has been appointed executor of the said Will. The Applicants have accordingly taken out the present Interim Application for joining them as Plaintiffs in place and stead of the deceased original Plaintiff and for consequential amendment to the Plaint. There are averments in the schedule of amendment which pertain to the order of this Court dated 24th August, 2018 appointing Additional Chief State Examiner of Documents, CID, Mumbai to examine alleged signatures appearing on the alleged Deed of Dissolution. Reference is made to the report dated 10th October, 2018 of the Additional Chief State Examiner of Documents, CID, Mumbai who has opined that the questioned signatures appearing on the alleged Deed of Dissolution are not written by the writer of the admitted signatures which were made available for verification by both original Plaintiffs and Defendants.

4. Mr. Reis has objected to the aforementioned averments in the draft schedule of amendment being paragraph 38A. He states

that this would require to be dealt with by way of an additional Written Statement considering that the Defendants have already filed their Written Statement. He has submitted that otherwise he has no objection to the draft amendment being allowed.

5. Having considered the submissions as well as noting the nature of the amendment sought for in the schedule of amendment which include the impleadment of the Applicants as Plaintiffs in place of the deceased original Plaintiff who expired on 30th June, 2020 in view of the Applicants being the sons and legal heirs of the deceased who have been bequeathed the estate of the deceased, the relief sought for in the Interim Application requires to be granted.

6. It is made clear that the relief has been granted without prejudice to the rights and contentions of the parties in the above Suit. Hence, the following order:-

(i) The Applicants are permitted to implead themselves as Plaintiffs in place and stead of original Plaintiff.

(ii) Accordingly, the Applicants are permitted to amend Plaintiff

as per the schedule annexed to the Interim Application

(iii) Amendment shall be carried out by the Applicants within a period of four weeks from the date of this Order.

(iv) Amended Plaintiff shall be served upon the Defendants simultaneously upon carrying out the amendment. The Defendants are permitted to file additional Written Statement dealing with amended Plaintiff which shall be filed within a period of four weeks from being served with the amended Plaintiff.

(v) Interim Application is disposed of in the above terms.

[R.I. CHAGLA J.]