



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition (WP) No. 4103 of 2023

Deorao S/o Nagorao Nikule and another

Versus

Pradeep S/o Tulshiramji Deotare and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.A.Bade, Advocate for the petitioners.

CORAM : ANIL S. KILOR, J.

DATED : 21st AUGUST, 2023.

The order dated 25th October, 2021 passed by the learned 15th Joint Civil Judge, Senior Division, Nagpur at Exhibit 36 moved by the plaintiff no.2 to delete the name of the plaintiff no.1 from the array of plaint, is under challenge in this writ petition.

2. The learned trial Court while passing the impugned order has observed thus:

“By way of this application plaintiff no.2 sought permission to delete the name of plaintiff No.1. Name of the party can not be deleted. An entry to that effect would suffice the purpose. Therefore, an entry be recorded on Exh.1 that the plaintiff No.1 is dead and his legal representative is already on record and the suit shall proceed at the instance of plaintiff no.2.”

3. It is the case of the petitioners that without bringing the legal heirs of plaintiff no.2, the said order came to be passed. It is further pointed out that the petitioners are the plaintiffs in the counter claim filed in the suit preferred by the respondents and after the death of the respondent no.1, as the respondent no.2 has not brought on record the legal heirs of respondent no.1, the petitioners would be sufferer.

4. The said argument cannot be accepted for the reason that the petitioners can move an application for bringing the legal heirs of defendant no.1 in their counter claim being plaintiffs.

5. In that view of the matter, the present petition is dismissed.

[ANIL S. KILOR, J.]