

Common Order Below Exh.s 140,141 & 142:

1] Heard Ld. Advocates for the parties. Peruse the record of the case. Present applications are given by plaintiff side for condonation of delay which is occurred to bring on record the Legal Representatives (LRs.) of deceased defendant No.1/1. An application at Exh.141 is filed for abatement set aside and application at Exh.142 is filed for joining the legal heirs of deceased Defendant No.1/1 as party to the suit.

2] After filing of these applications, this Court has issued Notices to the proposed defendants and same were duly served. The proposed defendants were remain present on the last date but neither they have given an application nor filed any reply. Today, proposed defendants are not present before this Court, therefore, their right to file reply in respect to the present applications is closed by this Court.

3] After perusal of these applications, it appears that, though the plaintiff side has given an application for condonation of delay, they haven't ascertained that on which date the defendant No.1/1 has died. It is also pertinent to note that plaintiff has not produced any death certificate of defendant No.1/1, but as the notices of these applications have been served upon the legal heirs of defendant No.1/1. It can be presumed that facts ascertained in these applications are true as no objection has been taken. Therefore, without actual date of death of defendant No.1/1 brought on record it cannot be determined that how much delay has occurred to file a present application. The plaintiff side has filed this application with vague facts but when there is a legal heir alive of deceased defendant no.1/1, it is necessary to join them as a party to the suit because without their existence a party suit cannot be decided. Therefore, this Court pass following order in the interest of justice.

ORDER

1. Applications filed by plaintiff side at Exh.140, 141 and 142 are hereby **Allowed** with cost.
2. Delay occurred to file a present applications are hereby condoned and deemed abatement is hereby set aside.
3. Proposed defendants No.s 1/1/1 to 1/1/3 are hereby ordered to be joined as legal heirs of the deceased defendant No.1/1.
4. Plaintiff side is hereby directed to pay cost of Rs. 2,500/- for vague & unspecific facts ascertained in these applications.
5. Necessary amendment be made in the plaint, and amended plaint is to be produced before this Court within stipulated time frame.

*Signed and Pronounced in the open court today on 08th day of **October**, 2025.*

Dt.08/10/2025.
Chikhli.

(S.P. DAVE)
Addl. Sr. Civil Judge, Chikhli.
(CODE NO.GJ- 01390)