(Mangal Bhupal Chougule V/s. Ashok Bhupal Upadhye-4)

(CNR No.:-MHSN15-000025-2020)

COMMON ORDER BELOW EXHIBIT 46, 48 AND 50
IN CIVIL MISCELLANEOUS APPLICATION No.13/2020
{*OLD* CIVIL MISCELLANEOUS APPLICATION No.245/2014}

1. Perused applications. Heard both sides.

2. Petitioner seeking to condone the delay to file application for setting aside abatement order against respondent No.2 and to bring on record the legal representatives of deceased respondent No.2.

3. A perusal of death certificate and contentions made in the applications, it can be seen that, respondent No.2 Satish Bhupal Upadhye has been died on 10/05/2020. As legal heirs were not brought on record within a period of ninety days i.e. upto 10/08/2020, the proceedings has been abated against respondent No.2, by operation of law. However, the application for setting aside abatement has not been filed within a period of limitation of sixty days, thereof. There is delay of about one year and two months in filing these applications.

4. Applicant argued that, during the said period of limitation, there was complete *Lock-down* and it cannot be possible to collect the necessary documents and thus the delay is caused, which is *bona-fide* and genuine.

5. Respondents have not raised any serious objection. However, submitted the order may follow on merit.

6. In view of the nature of the proceedings, all the legal representatives are required to be on record. Therefore, the right to sue have been survived through legal representatives mentioned in the application *Exhibit 50*. In these circumstances, to decide the matter on merit, all necessary parties are required. No doubt, there is huge delay. But, reason of *Lock-down* has been justified in moving the application after opening of the *Lock-down*. Therefore, there is no reason to reject applications. Hence, all the applications have to be allowed. Accordingly, I proceed to pass the following order.

O R D E R

1. Delay has been condoned, as prayed for.

2. Abatement is set aside.

3. Applicant is directed to bring on record the legal representatives of respondent No.2, by next date.

SUDHIR NARHARIRAO SHINDE

Digitally signed by SUDHIR NARHARIRAO SHINDE
Date: 2022.02.08 16:46:02 +0530

Vita. (***Sudhir N. Shinde***)
Date: 05/02/2022. Civil Judge Senior Division, Vita.

I affirm that, the contents of this P.D.F. file Judgment/ Order are same, word to word, as per the original Judgment/Order.

Name of the Stenographer : S. P. Pethkar.
Court : Civil Judge Senior Division, Vita.
Judgment/Order signed by the Presiding Officer on : 05/02/2022.
Judgment/Order uploaded on : 09/02/2022.