



**COMMON ORDER BELOW EXH. 54, 56, AND 58**  
**IN R.C.S. NO.720/2013**

This is an application is filed by the plaintiffs for the condonation of delay to bring the legal representatives of defendant No. 5 on record. The plaintiffs has prayed for condonation of delay to bring legal heirs on record, setting aside abatement order and amend the plaint. The present application is filed under Rule 4 and 9 of Order XXII of the Code of Civil Procedure, 1908. The defendants have resisted the application on the ground that it is made at a belated stage. The applications for condonation of delay, setting aside abatement order, and bringing LRs of defendant No.5 on record are supported by the affidavit. Perused the application, say and the record. Heard learned advocates for the respective sides.

2. According to the plaintiffs, defendant No. 5 is died on 19/03/2021. The death certificate (Exh.60) is placed on record. It is claimed by the plaintiffs that the father of the plaintiffs died after the death of defendant No. 5. The applicant are the legal representatives of the late plaintiff and filed the present application to bring the legal heirs of the defendant No. 5 on record. However, delay is caused to bring the legal heirs of defendant No. 5 on record. Meanwhile abatement order is passed.

3. On the contrary the defendants contended that the plaintiffs were aware about the death of defendant No. 5. The present application is filed at belated stage. The plaintiffs are not diligent in the legal proceedings. The reasons stated by the plaintiffs are not proper and sufficient to condone the delay. Thus, the application is liable to be rejected. Alternatively, prayed heavy cost in the event of allowing the same.

4. Having considered the submissions advanced by the learned advocates for the both sides. It is seen that the father of the plaintiffs was died after the death of defendant. No.5. Under such circumstances, one can understand that, the time must be require to get the instruction of the suit. The contentions of the plaintiffs are supported by the affidavit. Moreover, considering the nature of suit, it would be just and proper to condone the delay caused in filing the application for bringing the LR of defendant No.5 on record. It is necessary to bring the legal heirs of defendant No. 5 on record to decide the suit on merit. Even otherwise, no prejudice would cause to the defendants, if the application is allowed. In light of the aforesaid discussion, following order is passed:-

**ORDER**

1. The applications (Exh. 54, 56 and 58) are allowed subject to costs of Rs. 500/-.
2. On payment of the aforesaid costs to the defendants, the abatement of suit stands set aside, delay in making application is condoned and permission is granted to the applicants to take the LR of defendant No.5 on record.
3. The plaintiffs shall carry out necessary amendment in the plaint within 14 days and shall file a copy of the amended plaint on or before next date.

Date : 22/09/2022  
Place: Sangamner.

(Prachi R. Palwe)  
4<sup>Th</sup> Jt. Civil Judge Junior Division  
Sangamner