

MHAH170004792010



**COMMON ORDER BELOW EXHIBIT 82, 84 & 86.**

1. The matter was repeatedly called out till 4:00 p.m. for arguments; however, none appeared for either party. Hence, I proceed to decide the present applications on their merits based on the record available.
2. By way of these applications, the original plaintiff seeks the condonation of delay, the setting aside of the abatement order, and permission to bring the legal heirs of the deceased Defendant No. 4 on record.
3. It is the case of the plaintiff that the original Defendant No. 4, Smt. Kaushalyabai Appasaheb Agre, died on 17th September 2021. The plaintiff contends that they acquired knowledge of the death of Defendant No. 4 upon the perusal of Mutation Entry No. 5681, which disclosed the said demise. The plaintiff further submits that an earlier application below Exhibit 81 was filed by the legal heirs of the deceased Defendant No. 4; however, the same was not reflected in the Roznama (daily order sheet). Based on these submissions, the plaintiff prays for the reliefs sought in the present applications.
4. The original defendants have failed to file their say and have raised no objections to the contents of the applications. Furthermore, notice was duly served upon the proposed legal heirs of the deceased Defendant No. 4; yet, they too have chosen not to file any say or objection to the present applications.
5. At the outset, a perusal of the record confirms that Defendant No. 4 expired on 17th September, 2021. Consequently, there is a delay of

approximately 1381 days in filing the present applications, and the suit against the deceased Defendant No. 4 stands abated. While the plaintiff claims to have received knowledge of the death through Mutation Entry No. 5681, the pleadings are entirely silent regarding the exact date on which such knowledge was acquired. In the absence of a specific date of knowledge, it is practically impossible for this Court to ascertain the exact duration of the delay.

6. The plaintiff has also asserted that the legal heirs of Defendant No. 4 had disclosed the death by filing an application below Exhibit 81. It is true that the filing of the application at Exhibit 81 was not initially reflected in the Roznama. The record shows that the concerned clerk of this Court subsequently attempted to mention the said application by overwriting the Roznama. Such a practice by the concerned clerk is highly irregular, unacceptable, and cannot be considered as duly attributing knowledge of the application to the opposite party.

7. However, even disregarding that irregularity, the fact remains that it is the primary duty of the plaintiff to file an application for bringing legal heirs on record with specific details, including the exact date of knowledge, to enable the Court to properly ascertain and condone the delay. The plaintiff has approached this issue in a highly casual and careless manner.

8. Nevertheless, this Court must also consider the broader interests of justice. The present suit is one for the recovery of possession, involving significant civil rights. The matter has been pending before this Court since the year 2010. If the present applications are rejected on technical grounds of delay and careless drafting, the plaintiff will be compelled to institute a fresh, separate suit against the legal heirs of the deceased Defendant No. 4. This would inevitably lead to a multiplicity of litigation, which the law seeks to prevent.

9. Therefore, while the careless conduct of the plaintiff cannot be entirely overlooked, this Court is of the opinion that it is just and proper

to allow the applications to facilitate a complete and effective adjudication of the dispute on its merits. The inconvenience caused by the plaintiff's casual approach can be adequately compensated by imposing exemplary costs. Accordingly, I pass the following order:

**ORDER**

1. The applications at Exhibits 82 and 86 are hereby allowed, subject to the payment of exemplary costs of Rs. 2,000/- (Rupees Two Thousand Only).
2. The plaintiff shall deposit the said cost amount on or before the next date of hearing. In the event of a failure to deposit the costs within the stipulated time, these applications shall be treated as rejected for want of compliance.
3. Upon the successful deposit of the costs, the delay is condoned, and the abatement of the suit as against Defendant No. 4 is set aside.
4. The plaintiff is permitted and directed to carry out the necessary amendments in the plaint to bring the legal heirs of the deceased Defendant No. 4 on record. The plaintiff shall furnish an amended copy of the plaint while carrying out the said amendment.
5. Following the amendment, issue summons to the newly added legal heirs of the deceased Defendant No. 4.
6. The concern clerk of court is directed to properly maintain roznama and henceforth strictly not to overwrite any fact without prior permission and an order of court.

**Place : Rahata**  
**Date : 09/06/2026**

(Santosh R. Bharad)  
**2<sup>nd</sup> Jt. C.J.J.D. Rahata**