

MHAH170030042015



COMMON ORDER BELOW EXH. 32 AND 34.

Through the application, Exhibit 32, the plaintiffs are seeking condonation of delay to bring the legal heirs of deceased Plaintiff No. 1 on record, as well as through an application, Exhibit 34, the plaintiffs are seeking permission to bring the legal heirs of deceased Plaintiff No. 1 on record.

02. It is submitted that the Plaintiff died on 19th January 2021, due to COVID-19, and due to a lack of knowledge, it was not possible for the Plaintiff to prefer this application within the period of limitation. On that basis, it is prayed that this application be allowed.

The defendant failed to file a reply, though more than sufficient opportunity was given. Hence, the applications, proceeded without a reply from the defendants.

03. None present for argument. Peruse the record. This application has been pending since December, 18th 2023. Hence, I proceed to decide the same on its merits. Peruse the record.

04. At the outset, though by an application, Exhibit 32, as well as Exhibit 34, it is prayed to condone the delay and grant permission to bring

the legal heirs of the Plaintiff on record. But it is important to note that both applications are completely silent about which Plaintiff actually died. In the application, Exhibit 32, there is no name of the Plaintiff who died on 19th January 2021. Even the same fact is evident upon perusal of the application, Exhibit 34. Hence, it remains clear how seriously the application was drafted. It is very casually stated that due to a lack of knowledge and COVID-19, the Plaintiffs was precluded from preferring this application. So far as the COVID-19 pandemic is concerned, this Court can take judicial notice that the Honourable Supreme Court, in *Suo Motu Writ Petition No. 3 of 2020*, was pleased to exclude the period from 15th March 2020 to 28th February 2022 from the computation of the period of limitation.

05. But the question still remains that after the exclusion of this period, it was expected from the Plaintiff to disclose the reason for the delay since April 1, 2022, onwards. Even thereafter, there is a huge delay of nearly nine months.

06. However, at the same time, it also reveals that the present suit is for perpetual injunction and fixation of the boundary of agricultural land. Therefore, it remains clear that valuable civil rights are involved in the present matter. If the present application is rejected on technical grounds, then definitely the Plaintiffs will suffer irreparable loss. Hence, the present application deserves to be considered liberally.

07. However, at the same time, considering the facts and nature of the Plaintiff's case, appropriate exemplary costs need to be imposed upon

them. Hence, I pass the following order:

ORDER

1. The applications, Exhibits 32 and 34, are allowed subject to costs of Rs. 2,000/- only.
2. The applicant shall carry out the necessary amendment and bring the legal heirs of the deceased Plaintiff No. 1, Hawshiram Agre, on or before the next date, by providing an amended copy of the plaint at the time of carrying out the amendment.

Place : Rahata
Date : 01/07/2025

(Santosh R. Bharad)
2nd Jt. C.J.J.D. Court No.2
Rahata

CERTIFICATE

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

Name of the Stenographer : S. D. Kapse.
Court : 2nd Jt. Civil Judge Jr. Dn., & Judicial
Magistrate F.C., Rahata.
Date of order : 01/07/2025
Order signed by the Presiding : 01/07/2025
Officer on
Order uploaded on: : 02/07/2025