

ORDER BELOW EXH.36 IN R.C.S. NO. 130/2014

This application has been filed by the plaintiff for condonation of delay in bringing the legal representatives of the deceased defendants No. 01 and 02, on record.

02. It is contended by the Learned Advocate for the plaintiff that the defendants No. 01 and 02, have reported to be died on 06/05/2020 and 09/02/2022 respectively, leaving behind their legal representatives. At this juncture, it is necessary to bring the legal representatives of the deceased defendants No. 01 and 02 on record for the effective adjudication of the present suit. Furthermore, if they were not taken on record then it will adversely affect on the rights of the plaintiff. Hence, prayed for condonation of delay caused for bringing the legal representatives of the deceased defendants No. 01 and 02, on record.

03. The defendants have filed their say on the overleaf of present application and contended that plaintiff has not given proper reasons for delay. Hence, prayed for rejection of the present application along with costs.

04. Perused the application, say and other material on record. Heard Learned Advocate for both parties and considered their submissions.

05. On perusal of record, it appears that the copies

of death certificates of deceased defendants No. 01 and 02 have filed on record along-with list at Exh.33. On perusal of the same, it demonstrate that Keru Kesu Sudrik has reported to be died on 06/05/2020 and Laxmibai Keru Sudrik has reported to be died on 09/02/2022 .

06. The application for bringing the legal representatives on record will have to be made within 90 days of the death and on the expiry of said 90 days the proceeding stands automatically abated. Within 60 days of such abatement an application must be made to set aside the abatement. The present application has filed on 01/08/2023 and it is supported with an affidavit. Therefore, the delay appears to have been caused for taking legal representatives of the deceased defendants No. 01 and 02, on record.

07. The present suit has instituted for seeking the relief of maintenance. Considering the reliefs claimed in the suit, the presence of legal representatives of the deceased defendants No. 01 and 02 seems necessary. Furthermore, the right to sue survives with the legal representatives of the deceased defendants No. 01 and 02. The plaintiff has given sufficient explanation for the delay. In such circumstances, it is cardinal principle of law that matters should be decided on merits. Therefore, from the contentions made in the present application, it depicts that delay is not intentional and the same shall be condoned for

the just decision of the case. However, the delay caused for bringing the legal representatives of the deceased defendants No. 01 and 02, can be compensated by imposing cost on the plaintiff. Therefore, present application deserves to be allowed. Hence, I pass following order:-

:- ORDER :-

1. The application at Exh.36 is hereby allowed.
2. The delay caused in bringing the legal representatives of the deceased defendants No. 01 and 02 on record is hereby condoned, subject to payment of cost of Rs.200/- payable to the defendants No. 04 and 06.

Date:- 24/02/2026.

Place:- Jamkhed.

Sd/-

(Anushri B. Phand)

**Jt. Civil Judge Junior Division,
Jamkhed**