

ORDER BELOW EXH. 20 IN R. C. S. NO. 259/2015.

(CNR : MHAH23-000347-2015)

1. Plaintiffs No. 2 to 4 have filed present application to condone delay caused to bring legal heirs of deceased plaintiff No. 1 on record. Say of defendants is called. They have filed their say and objected the application.

2. It is argued on behalf of the plaintiffs No. 2 to 4 that they have filed suit for declaration and permanent injunction against the defendants. It is further argued that there was settlement between the plaintiffs and defendants on 24/10/2010 before notary and accordingly names were entered to extract of suit property. It is further argued that plaintiff No. 1 is died on 18/01/2017. It is further argued that plaintiff No. 2 is only legal heir of deceased plaintiff No. 1. It is further argued that due to illness and other domestic reasons, they could not bring legal heirs of deceased plaintiff No. 1. It is further argued that they have not purposely caused delay to bring legal heirs on record. Hence, application may be allowed.

3. On the other hand, it is argued on behalf of the defendant No. 1 that application filed by the plaintiff Nos. 2 to 4 is not legal and proper. It is further argued that application is filed at belated stage. It is further argued that no satisfactory reason has been given by the plaintiff Nos. 2 to 4 to condone the delay. It is further argued that if at all application is to be filed cost of Rs. 10,000/- may be imposed on plaintiff Nos. 2 to 4.

4. Perused application, say and record of the case. Heard both the parties. On perusing record, it appears that plaintiffs have filed suit for declaration and permanent injunction against defendants.

Further, during pendency of suit plaintiff No. 1 died on 18/01/2017. It appears that plaintiffs have filed present application on 13/06/2017 to bring legal heirs of deceased plaintiff No. 1 on record. It appears that there is delay of three months. Further, plaintiff Nos. 2 to 4 have given reason that matter has been settled between them and defendants on 24/10/2010 and accordingly entries were taken on record of right. Further, due to illness and other domestic reasons they could not bring legal heirs on record. It is pertinent to note that application is filed after three months after suit is abated. Therefore, considering facts and circumstances of the case and meagre delay caused to bring legal heirs on record needs to be condoned. Further, if application is allowed no prejudice would cause to defendants. Hence, considering the facts and in the interest of justice, I am of the view that it is necessary to set aside abatement. Hence, I proceed to pass following order.

ORDER

The application (Exh. 20) is hereby allowed.

(Dictated and pronounced in open Court.)

Shrigonda.
Date : 24/03/2021.

(Sangram S. Shinde)
Civil Judge, Senior Division,
Shrigonda.