

**Regular Civil Suit Number 17/2011**

**CNR Number MHAH-23-000750-2014**

1. Macchindra Kisan Bhade ..... Plaintiffs

Versus

1. Tukaram Dattatray Bhade ..... Defendants

**ORDER BELOW EXHIBIT 98**

1. The suit is for partition. The plaintiffs have filed the application vide exhibit 98 for condonation of delay to cause the legal representatives of defendant number 2, 3 and 4 on record. The court has called the say of opposite side on application vide exhibit 98. The defendants have filed say and raised strong objection. It is stated that, application is false and reasons are not sufficient. The plaintiffs are not interested to proceed with the suit. Hence, application vide exhibit 98 is to be rejected.

2. I have perused application vide exhibit 98 filed by plaintiffs for condonation of delay and say of defendants. I have also gone through affidavit at exhibit 99. I have heard both sides.

3. The suit is for partition. The defendant number 2 namely Pandurang Dattatray alias Dattu Bhade died on 20-10-2020, defendant number 3 Kerba Dattatray alias Dattu Bhade died on 18-04-2023 and defendant number 4 namely Arjun Dattatray alias Dattu Bhade died on

10-07-2023. The plaintiffs have filed the application vide exhibit 98 for condonation of delay to cause the legal representatives of defendant number 2, 3 and 4 on record. They are coming with the case that, there is delay in causing the legal representatives of defendant number 2, 3 and 4 on record inadvertently.

4. On the other hand, defendants have filed say and raised strong objection. It is stated that, application is false and reasons are not sufficient. The plaintiffs are not interested to proceed with the suit. Hence, application vide exhibit 96 is to be rejected.

5. I have perused death certificates of defendant number 2, 3 and 4 vide exhibit 93, 94 and 95. It reveals that, defendant number 2 namely Pandurang Dattatray alias Dattu Bhade died on 20-10-2020, defendant number 3 Kerba Dattatray alias Dattu Bhade died on 18-04-2023 and defendant number 4 namely Arjun Dattatray alias Dattu Bhade died on 10-07-2023. On perusal of article 120 of Limitation Act, it appears that application to cause the legal representatives on record is to be made within period of 90 days from date of death. But in the present suit, the defendant number 2 namely Pandurang Dattatray alias Dattu Bhade died on 20-10-2020, defendant number 3 Kerba Dattatray alias Dattu Bhade died on 18-04-2023 and defendant number 4 namely Arjun Dattatray alias Dattu Bhade died on 10-07-2023. Therefore, the application below exhibit 98 is filed on 06-11-2023 along with affidavit stating that, there is delay in causing the legal representatives of defendant number 2, 3 and 4 on record inadvertently. This is the

reason for delay. The plaintiffs have sufficient cause which prevented them from making application for causing the legal representatives of defendant number 2, 3 and 4 on record. It reveals that, there is sufficient cause which has prevented them from causing legal representatives on record, then it has to be considered by the court. And the delay can be condoned, on the ground of sufficient cause. In present suit, there is sufficient cause. Therefore, it will not be appropriate to saddle the cost on shoulder of plaintiffs for causing delay. In order to enable the court to adjudicate effectively, completely and to settle all the questions involved in the suit, it is necessary to allow the application and to condone the delay, to cause on record the legal representatives of defendant number 2, 3 and 4. It is therefore necessary in the interest of justice to allow the application vide exhibit 98. In the result, the following order is passed.

**ORDER**

1. The application vide exhibit 98 is allowed.
2. The delay for causing the legal representatives of defendant number 2, 3 and 4 on record, is hereby condoned.
3. There shall be no order as to cost, after considering the facts and circumstances of the present suit.

Shrigonda  
Date – 20-11-2023

Sd/-  
**Smt. K. A. Katkar**  
Joint Civil Judge (J.D)  
Shrigonda.

**:-CERTIFICATE:-**

I affirm that, the contents of this pdf file order are same, word for word as per original order.

Case No.	:-	R.C.S. No. 17/2011
Name of Stenographer	:-	Smt. S. V. Jadhav
Court Name	:-	Smt. K. A. Katkar, Jt. Civil Judge, J.D, Shrigonda.
Date of Decision	:-	20-11-2023
Order signed by P.O. on	:-	20-11-2023
Order uploaded on	:-	20-11-2023