



COMMON ORDER BELOW EXH.86 & 88 IN
RCS NO.217/2013
(CNR : MHAH2500 0441 2013)

Perused the applications filed by heirs of plaintiff seeking liberty to bring them on record as legal heirs of the plaintiff No.1 & 2 by setting aside the abatement order by condoning the delay and seeking permission to bring them on record and carry out the proposed amendment.

2. It is the contention of heirs of plaintiff No.1 & 2 that date of death of plaintiff No.1 & 2 are 16.09.2016 & 15.06.2019 respectively. The application is supported by an affidavit of heir of plaintiff namely Ashok Haribhau Pawar stating that the delay has been caused to bring them on record due to death of plaintiffs by heart attack and during that period lockdown falls. Therefore, the suit is abated against them. Therefore, applicants prayed to set aside abatement order and to condone the delay caused to take the legal heirs of plaintiffs on record.

3. It is their further contention that the deceased plaintiff No.1 is survived by his wife namely Sundarbai, two sons namely Ashok and Haribhau and one daughter namely Shobha Sham Jagtap. Deceased plaintiff No.2 is survived by his wife namely Sudha Gulab Pawar. They are the legal heirs of the deceased plaintiffs. Therefore, by way of this application heirs of plaintiffs are seeking permission to bring them on record by setting aside the abatement against them. Accordingly, they wants to add the names of aforementioned legal heirs of plaintiff as plaintiff No.1A to 1D & 2A after the name of plaintiff No.1 & 2 by making bracket to their name and by adding the word 'deceased' after the name of plaintiff No.1 & 2.

4. The defendants have filed say to the applications at overleaf and strongly objected the applications. They contended that the present

applications are not true. Defendants are deliberately prolonging the matter. Therefore, they prayed for necessary order.

5. I have gone through the averment of both the parties and the documents filed on record. Heirs of plaintiff have filed death certificates of plaintiffs along with Exh.85. Both applications are accompanied with affidavit of son of plaintiff No.1 namely Ashok Haribhau Pawar. Considering the contention of heirs of plaintiffs, I am of view that the they have sufficient cause which prevented them from making application for bringing them on record. The dispute involved in the suit is relating to the immovable property. The valuable rights of the parties are therefore, required to be adjudicated. The abatement, therefore, needs to be set aside and the legal heirs of the deceased plaintiff are required to be brought on record. In order to enable the court to effectively and completely adjudicate upon and settle all the questions involved in the suit, in the interest of justice, it is necessary to allow the applications and to carry out the necessary amendment accordingly. The proposed amendment will not change the original nature of the suit. In view of the aforesaid discussion following order is passed.

ORDER

1. The applications (Exh.86 & 88) are allowed.
2. The abatement order is hereby set-aside by condoning the delay.
3. The applicants are allowed to bring legal heirs of plaintiff No.1 & 2 on record of the suit.
4. The plaintiff to carry out the proposed amendment within 14 days.

Date : 06.07.2023

**(S. C. Salvi)
Jt. Civil Judge Junior Division,
Parner.**