

R.C.S. No. 297 / 2011

(MHAH020014132011)

Rohini Vs. Dadu and others

COMMON ORDER BELOW EXH. 68, 70 AND 81.

These are applications on behalf of plaintiff for seeking permission to bring names of legal heirs of deceased defendant no.1, Dadu Bhavanji Suryavanshi on record *inter alia* condoning the delay and setting aside abatement to suit caused due death of defendant no.1.

2. It is submitted that pending the suit, defendant no.1, Dadu Bhavanji Suryavanshi has died on 16.07.2014 at village Hanga, Tal. Parner. He is survived by legal heirs. It took time to get details of legal heirs and hence, delay has caused to bring their names on record. It is necessary to bring legal heirs of deceased defendant no.1 on record. Hence, these applications for condoning the delay caused in bringing legal heirs of defendant no.1 on record and setting aside abatement to suit.

3. Applications are opposed by one of the legal heirs, Surekha Padale submitting that there is delay of about 4 to 5 years in bringing legal heirs of deceased defendant no.1 on record and hence, application be rejected and in alternate, heavy costs be imposed if it is to be allowed.

4. Heard learned advocate of either side.

5. I have gone through record of the file. It appears that suit is filed for measurement of portion of plaintiff and defendants in Gut no.13 situated at village Mungshi. It appears to be admitted fact that pending the suit defendant no.1 has died on 16.07.2014. Admittedly,

there appears to be delay in bringing legal heirs of defendant no.1 on record. It is the submission of plaintiff that as defendant no.1 was old age, it took time to get details of his legal heirs and hence delay has caused. Application is supported by affidavit. Even otherwise, considering the nature of suit, it is necessary that legal heirs of deceased defendant no.1 should be party to the suit as right to sue is survived against them and their right and interest is involved in the suit property. Therefore, I find that it would be appropriate to allow the plaintiff to continue the prosecution of the suit against the legal heirs of deceased defendant no.1 by permitting to bring their names on record subject to costs. Hence, I pass following order:-

ORDER

1. Applications are allowed subject to costs of Rs.1,000/- payable to the legal heirs of defendant no.1.
2. Delay caused in filing applications for bringing legal heirs of deceased defendant no.1 is condoned.
3. Permission is granted to bring legal heirs of deceased defendant no.1, Dadu Bhavanji Suryavanshi on record and necessary amendment in the plaint be carried out within next date.

Date:- 03.03.2025.
Parner

(R. K. Deshpande)
Civil Judge, Junior Division
Parner.