

ORDER BELOW EXH.24 IN R.C.S. NO.59/2021
Sushila Tayade V/s. Kailas Tayade & Ors.
CNRNo.MHAK070017382021

The application filed by plaintiffs for condonation of delay and seeking liberty to bring on record the LR's of defendant No.2.

2. The defendant No. 2 namely Raghoji Zhingaji Tayade died on 18.08.2022 during pendency of suit, and the application is filed on 03.01.2023 i.e. beyond 90 days from the date of death of the defendant No. 2.

3. The application is supported by an affidavit stating that, plaintiff is old age lady an suffering from illness when defendant No.2 was died. Plaintiff has provided information to her advocate about death of defendant No.2. The delay is not deliberated. Therefore, the plaintiff prayed to condoned the delay for 7 days.

4. Plaintiff filed say and resisted application. He submitted that application be rejected. If allowed heavy costs may be imposed.

5. Perused the application and record. It appears that, defendant No. 2 namely Raghoji Zhingaji Tayade died on 18.08.2022. As the suit is for permanent injunction and compensation, it is necessary to bring LR's of deceased defendant No.2 on record. In the present application plaintiff sought condonation of delay only for 7 days. The ground stated by plaintiff in the application seems reasonable. In view of Sec. 5 of the Limitation Act, for condonation of delay there should be reasonable cause. Plaintiffs had sufficient cause which prevented them from making application for bringing legal representatives on record. Considering the nature of the suit and in order to enable the court to effectively and completely

adjudicate upon and settle all the questions involved in the suit, it is necessary to allow the application and delay is condoned. However, it would be appropriate to allow this application on costs. Hence, I pass following order;

ORDER

- (a) The application is allowed subject to costs of Rs.200/-.
- (b) The delay is hereby condoned.

Date : 16/06/2023.

(Smt. D. M. Patil)
Civil Judge Junier Division,
Balapur.

ORDER BELOW EXH.21 IN R.C.S. NO.59/2021

Sushila Tayade V/s. Kailas Tayade & Ors.

CNRNo.MHAK070017382021

The application filed by plaintiffs for bringing LR' on record of defendant No. 2 vide Order 22 Rule 4 the Code of Civil Procedure.

2. The defendant No. 2 namely Raghoji Zhingaji Tayade died on 18.08.2022 during pendency of suit, and the application is filed on 03.01.2023 i.e. beyond 90 days from the date of death of the defendant No. 2.

3. Plaintiff filed say and resisted application. He submitted that application be rejected. If allowed heavy costs may be imposed.

4. Perused the application and record. The application is supported by an affidavit. It appears that, defendant No. 2 namely Raghoji Zhingaji Tayade died on 18.08.2022. As the suit is for permanent injunction and compensation, it is necessary to bring LR's of deceased defendant No.2 on record. The deceased defendant No.2 is survived by widow, two son and one daughter. They are the legal heirs of the deceased defendant No.2. Therefore, the right to sue survives vide Order 22 Rule 4 of the Code of Civil Procedure.

5. The application to bring the legal representatives of the deceased plaintiff is made beyond limitation period of 90 days as is prescribed by Article 120 of the Limitation Act, 1963, from the date of death of the deceased defendant. The delay is condoned vide order on Exh. 24.

6. The application is allowed.

7. The plaintiff is allowed to bring the L.R.'s of the deceased defendant No. 2 on record of the suit within 14 days from the date of this order.

Date : 16/06/2023.

(Smt. D. M. Patil)
Civil Judge Junier Division,
Balapur.

I affirm that the contents of this P.D.F. File Judgment/Order are same, word to word, as per the original order.

Name of the Court	:-	Smt. D. M. Patil Civil Judge, J.D. & J.M.F.C., Balapur
Name of the Stenographer	:-	Shaikh Rafique Rasheed
Date of Decision	:-	16/06/2023
Order signed by PO on	:-	16/06/2023
Order uploaded on	:-	17/06/2023