

R.C.S. No.26/2013
Pandhurang -Vs- Subhash

CNR No. MHAM080004502013



Common Order Below Exh.82, 83 And 84
In R.C.S. No.26/2013
(Pandurang -Vs- Subhash)
Date: 30/06/2023

The present application is filed by legal representatives Seema Vinod Pnachavate for condonation of delay for filing of application for setting aside abatement, for setting aside abatement the suit against the plaintiff and brining the legal heirs on record of the plaintiff under Order 22 Rule 4 of the Code of Civil Procedure, for addition of the parties.

2. It is contended that the plaintiff died on 03/02/2022. Supported with the copy of death certificate. Deceased plaintiff is survived by the legal representative mentioned in the application. It is necessary to take her as his daughter on record as she is the legal representatives of deceased plaintiff. She further contended that the right to sue is survive. Hence, it is prayed that the application be allowed and she be taken on record.

3. Plaintiff further contended that he had filed the present application after 3 months and 19 days. But due to loss of the plaintiff, the applicant could not approach before the court within time. Therefore, the present application is filed after due delay which needs to be condoned. Hence, she prayed to condone the delay. Applicant further prayed for setting aside abatement against the plaintiff. Hence, he prayed to bring the legal heirs of the plaintiff on record. Per contra, the defendants objected and stated to pass necessary order by filing their say.

4. Heard Adv. Karade for defendant. Applicant and her counsel is absent, hence application taken up without their hearing on the application. Perused the record. All the application on the affidavit. Plaintiff has filed the application to condone the delay, for setting aside abatement and to bring the legal heirs on record. It is a suit for filed the suit for possession, permanent injunction and for mense profit. On perusal of the death certificate of deceased plaintiff, it is seen that his date of death is 03/02/2022. The delay caused in bringing the legal representatives on record appeared to be satisfied. Hence, it is condoned. Considering the nature of suit and right to sue is survive, hence, the abatement is set aside. 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 to bring the legal representatives of deceased plaintiff on record. Hence, the application is liable to be allowed. Hence, I pass the applicant is to be joined by virtue of this

application. The relief claimed in the suit is with regard to the right of the proposed party. Therefore, it is necessary that those parties be added as defendants so as to give them an opportunity to put up their case and to help the court to decide the controversy on merits. Therefore, it is necessary to allow the application. Hence, the order.

ORDER

1. The applications at Exh.82, 83 and 84 are allowed.
2. The plaintiff/applicant shall carry out the amendment in the array of the parties to add the the applicant as party to the suit and immediately supply the copy of the plaint for service of suit summons.
3. No order as to cost.

Dt:30.06.2022

(Seema A. Ladse)
Civil Judge, Jr. Dn., Bhatkuli,
Distt.Amravati.