

MHAU050027362018



ORDER BELOW EXH. No.97
(Order passed on 21-06-2023)

Applicant namely Sangita Dipak has moved this application to condone the delay which caused to join them as a party in the matter as L.R's of deceased plaintiff.

02. It is submitted that, the plaintiff of the suit is expired on 25-10-2021, due to her oldness. During that period, applicant was also suffering from the virus of Covid-19, therefore she could not attend in the Court to bring them as L.R's. on record. Delay is not caused intentionally to file the application. If application rejected, it would cause injustice on her right. Points for determination in the matter is regarding the immovable property. Applicant and other have vested right and interest in the subject matter. Lastly, prayed to condone the delay of seven month and allow the application.

03. Application is opposed by the defendant No.14. It is his contention that, application is against the provision of law. The defendant has brought on record the fact of death of the

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plaintiff. Reasons mentioned in the application to condone the delay are false. Applicant has not mentioned by which disease she was suffering and in what hospital she was admitted. No document produced on record to show that, applicant was ill. After the prescribed period suit is abated. No detailed explanation given in the application by the applicant for delay caused for seven month. No affidavit filed with the application. Other L.R's. have not approached to the Court. Lastly, prayed to reject the application with cost.

04. Heard both sides.

05. Perused the application and reply thereon. I have gone through the observation of the matter of Hon'ble Apex Court in the matter of *Amalendu Kumar V/s. State of W.B. 2013(4) Mh.L.J. 117, SC*, which is cited on behalf of applicant. Keeping in view the observation of Hon'ble Apex Court of the cited matter supra. I have also perused the record. It would demonstrate that, present suit is for the relief of partition, possession and as well as declaration. If the contention of the application is considered, along with the rule laid down in cited matter supra, I am of the considered view that, applicant has shown sufficient cause to entertain the application and to condone the delay. No prejudice would cause to the defendants if

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application allowed. On the contrary, if application is allowed, it would be helpful to decide the real controversy between the parties on merit. Further, to decide the matter finally and effectually, application will have to entertain. Application deserves to be allowed. Hence, I pass the following order:-

ORDER

1. Application is allowed.
2. Delay is condoned as claimed in the application.

Date: 21-06-2023

(R. M. Karade)
Jt. Civil Judge (Sr. Div.)
Vaijapur

CERTIFICATE

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

Name of the Stenographer : Shri. G. M. Zade.

(Stenographer Grade-II)

Court : Shri. R. M. Karade.

Jt. C.J.S.D., Vaijapur.

Date of Order : 21-06-2023

Order signed by the P.O. : 21-06-2023

Order uploaded on : 21-06-2023