

MHAU050039312010



Kazi Musa (died) through L.R's. and other V/s. Haroon (died) through  
L.R's and others

**ORDER BELOW EXH.151**  
**(Order passed on 06-02-2023)**

This application is filed on behalf of plaintiffs to condone the delay caused for bringing the L.R's of plaintiff No.4 on record.

2. It is the contention of the plaintiffs that, before demise of plaintiff No.3 since 2010, the plaintiff No.1 Musa used to pursue the proceeding of the present suit, thereafter the said plaintiff started to remain bedridden at his native Latur due to his ill-health. The plaintiff No.1 is unable to move from bedridden since 2017, therefore the plaintiff No.2 started visiting at Latur to meet him once in 3 to 4 months. He lastly visited the house of said plaintiff in the month of April 2017. But thereafter due to being busy in proceeding of this suit, as well as another sister suit bearing Spl.C.S.No.01/2013 and thereafter being busy in earning lively hood, he could not visited Latur to meet plaintiff No.1. On 09-03-2020, when he visited the house of plaintiff No.4, at that time, he got information that, he is expired on 22-06-2017. The

right to sue is survive even after the death of plaintiff No.4. However, legal heirs of the said plaintiff could not brought within the 90 days from the death of said plaintiff. Delay of 3 years 6 month is not intentional. The right to sue is available to L.R's. of the deceased plaintiff No.4 and therefore to protect their right delay is necessary to condone, otherwise L.R's. will have to face multiplicity proceeding. Lastly, prayed to allow the application.

3. Only defendant Nos.10 and 11 have resisted the application on the ground that, name of the plaintiff No.4 in the suit is Yasin Pir Mohammad Qureshi, however in the application Exh.151, the name of said person mentioned as Yamin. Therefore, application is not maintainable as the person namely Yamin is not party to the suit. Lastly, prayed to reject the application.

4. Perused the application and say filed thereon. Considering the nature of the suit, it is for specific performance of contract and perpetual injunction against the defendants. Further, upon perusal the plaint, it can be seen that, plaintiffs have set their specific claim against the defendants. If the points involved in the suit is considered, I am of the considered view that, to adjudicate the matter on merits and effectively and finally, it would be just and proper to allow application. Further, no prejudice would caused to other side, if application is allowed. Consequently, I pass following order.

**ORDER**

1. Application at Exh.151 is allowed.
2. Delay is hereby condoned to take the L.R's. of plaintiff No.4 on record.
3. Plaintiffs to comply.

Date : 06-02-2023

(R. M. Karade)  
Jt. Civil Judge Senior Division  
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 : 06-02-2023  
Order signed by the presiding officer on : 07-02-2023  
Order uploaded on : 07-02-2023