



ORDER BELOW APPLICATION VIDE EXH.15 IN
R.C.S.NO.144/2017.

(Shaikh Mehboob and others Vs. Shaikh Sabu and others)

1. The present application is filed by the plaintiffs for condoning the delay for taking legal heirs of defendant no. 1 on record and for setting aside the abatement against defendant no. 1.

2. It is contended by the plaintiffs that, defendant no. 1 expired on 02.02.2018 and thereafter they tried to procure the death certificate and legal heirs certificate of defendant no. 1. However, it was not provided by the concerned Authority. They told them that, without registering death of defendant no. 1 no certificate can be given. Thereafter, when the death of defendant no. 1 was registered the plaintiffs procured necessary documents. However, there is delay about three months for taking the legal heirs of defendant no. 1 on record. Said delay is accidental and unintentional hence, it may be condone and abatement be set aside.

3. Notices were issued to the proposed legal heirs of defendant no. 1. Legal heirs nos. 1 to 3 appeared and filed their say. Legal heir no. 4 was served through paper publication but she has remained absent. Legal heirs nos. 1 to 3 submitted that, the reason mentioned in the application is false and application be rejected and if it is allowed costs of Rs. 2000/- be imposed.

4. On perusal of record it appears that, present suit is filed

for recovery of possession. It appears that, due to unavailability of necessary documents the plaintiffs were not able to take proper steps. Considering the nature of suit all necessary parties should be provided opportunity. For said purpose legal heirs of defendant no. 1 are necessary to be added. At the same time the delay caused can be compensated by imposing appropriate costs. Hence, following order.

ORDER

- 1) Application Exh. 15 is hereby allowed.
- 2) The delay for taking legal heirs of defendant no. 1 is hereby condoned and the abatement against defendant no. 1 is hereby set aside subject to costs of Rs. 300/- to be given to legal heirs of defendant no. 1.

Date: 07/10/2021.

sd/-
(Pankaj K.Ahir)
Civil Judge, J.D.,
Kannad.

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 : Y. S. Mali
Court : C.J.J.D. & JMFC, Kannad.
Date : 07/10/2021
Order signed by the
presiding officer on : 07/10/2021
Order uploaded on : 07/10/2021

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