

MHAU070060122025



**ORDER ON EXH-43 IN Spl.CS NO.361/2025**  
**Khaled Vs. Rajiya**

The present application is filed by the plaintiff to condone the delay and set aside abatement of the suit against legal representative of deceased defendant No.3.

**02.** Heard Ld. Advocate for plaintiff and defendant. The suit is filed for perpetual injunction, cancellation of agreement and removal of encroachment. Defendant No.3 is died on 21/10/2017. the plaintiff was under obligation to bring on record legal representative within 90 days from the date of death, but failed. Therefore, suit is abated. Moreover, the plaintiff failed to file application to set aside abatement within 60 days. Therefore, plaintiff compel to file application to condone the delay caused to file application to set aside abatement of the suit. Hence present application.

**03.** There is delay of more than 8 yrs. Though defendant has raised objection, to decide the suit on merit abatement of suit is needs to be set aside. Hence, the delay caused by plaintiff can be condoned by imposing reasonable costs. Hence, order-

**ORDER**

1. Application is allowed.
2. Delay is condoned and abatement is set aside subject to costs of Rs.1000/- payable to the defendant.

Date:- 06.04.2026

(Nilesh R. Indalkar)  
Civil Judge Sr. Division  
Gangapur