

MHAU110010102017



-: Common order below Exh. 60 and 64
R.C.S.No.97/2017 :-
Fatma Bee and others Vs. Sk. Yasin and others

The application Exh.60 an application filed by plaintiff for condonation of delay and Exh.64 for taken Lrs of the deceased plaintiff No.1 Fatma Bee w/o Razmohammad on record.

2. It is contended by the plaintiff that, plaintiff No. 1 Fatma Bee w/o Razmohammad died on 27/8/2020. Therefore, the delay is caused for taken Lrs of plaintiff on record. He further contended that, the delay is not intentional, there is near about nine month 10 days delay. Hence, prayed for condonation of delay of nine month 10 days for taken Lrs of the plaintiff on record.

3. Say of plaintiffs and defendants called but they failed. Hence no say order is passed.

4. Heard Ld. Advocate for plaintiff.

5. Perused record of the suit, an application, death certificate of deceased plaintiff No.1 and heir certificate issued by Grampanchayat Jambhali Tq. Paithan Dist. Aurangabad dated 4/12/2020. From it appears that, this is a suit for partition, declaration and injunction. Plaintiff No. 1 Fatma Bee w/o Razmohammad died on 27/8/2020 and this application is filed on 14/10/2022. The deceased plaintiff is survived as Salim Rajmohammad Sheikh, Age 55 years, Occu. Agril. r/o, Jambhli Tq. Paithan Dist. Aurangabad.

As per their prayer, he is the legal heirs of the deceased plaintiff No.1. They have right to sue. The suit is now at evidence steps.

6. The application for the condonation of delay to bring the legal heirs of the deceased plaintiff on record of the suit is not made within limitation period of 90 days as is prescribed by Article 120 of the Limitation Act,1963, from the date of death of the deceased plaintiff No.1. The reason mentioned in the application is not satisfactory but in catina of judgments Hon'ble Apex Court has taken view that while deciding application of the condonation of delay lenient view should be taken. Therefore, in my view, the suit is in respect of immovable property for that in the interest of justice and fair trial, it is necessary to give chance to the heirs of plaintiffs to conduct the suit. The application filed belatedly. Hence, costs should be imposed while granting this application. Hence, the application is deserved to be allowed and delay of nine month 10 days is condoned. After payment of costs legal heirs of the plaintiff Add as a legal heirs of the plaintiff in the array of the parties of the suit within 14 days. Resultantly, I pass the following order.

ORDER

1. The application Exh. No.60 and Exh.64 are allowed with costs of Rs.500/-.
2. The plaintiff is allowed after depositing costs to legal Aid take heirs (1) Salim Rajmohammad Sheikh, Age 55 years, Occu. Agril. r/o, Jambhli Tq. Paithan Dist. Aurangabad, add as a legal heirs of the plaintiff No.1 in the array of the parties of the suit till next date.

Date :- 19/12/2024.

(Dhnanjay S. Deore)
Jt. Civil Judge, (J.D.),
Phulambri.

CERTIFICATE

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. S.D.Chavan

Name of the Court : C.J.J.D. & J.M.F.C.,
Phulambri

Date of order : 19/12/2024.

Original copy of order signed by

the presiding officer on : 19/12/2024.

PDF copy of order uploaded on : 20/12/2024.