

MHAU130001232018



ORDER BELOW EXH.23 IN R.D. NO.1/2018

1. The decree holders have moved this application for condonation of delay for bringing L.R's of J.D. No.3 on record.
2. Ld. counsel for D.H. submitted that, he got the knowledge of death of J.D. No.3 after receiving the report of bailiff. Therefore, an application for bringing L.R's. of J.D. No.3 on record has been filed. Ld. counsel for J.D. No.4 has submitted that, suitable order be passed. J.D. Nos.1 and 2 have not filed their say.
3. I have perused the application and say. Death certificate has been filed vide Exh.23-A. Considering the averments made I find that, D.H. was not having the knowledge of the death of deceased J.D. No.3. This fact is also not disputed by the J.D. Thus, it appears to me that, D.H. have acting in good faith in filing a present case against a dead person. This filing of case is due to a mistake made in good faith. No neglect can be attributed to the conduct of D.H. in filing the present case as they have not having knowledge of the death of J.D. No.3. Have they known the death of J.D. No.3, they could have filed a case in the first instance against his heirs. For the said reasons I find that there is sufficient cause for not making the application within the period specified so the abatement against deceased J.D. No.3 is set aside by condoning the delay. In the result following order is made.

ORDER

Application is allowed and the delay is condoned with setting aside the automatic abatement against deceased J.D. No.3.

Date :- 12-11-2019
Place :- Aurangabad.

(Smt. A. S. Badgujar),
Civil Judge Senior Division (Corporation),
Aurangabad.

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	: Miss. Manjushri S. Salve.
Court	: C.J.S.D. (Corporation Court), Aurangabad
Date	: 12-11-2019
Order signed by the presiding officer on	: 14-11-2019
Order uploaded on	: 15-11-2019