

MHBI120008822017



Order below Exh. 24 in R.C.S no. 170 of 2017

The present application is filed by the plaintiffs to set aside abatement of the suit against plaintiff no. 1 and defendant no. 2.

2. It is contended by plaintiffs that plaintiff no. 1 and defendant no. 2 died on 30.04.2014 and 24.03.2011. Plaintiffs were not aware of transfer of present suit to Dharur Court. Therefore, due to inadvertent error of plaintiffs legal heirs of plaintiff no. 1 and defendant no. 2 could not be brought on record within time. If the said abatement is not set aside, they would suffer irreparable loss. Hence prayed to allow the application.

3. Defendants resisted the application contending that the present application is decided as per law.

4. Perused the application and say. Heard.

5. From the perusal of the record, it is apparent that plaintiffs have given reasonable explanation to set aside abatement. There is nothing on record to infer that conduct of plaintiffs is malafide regarding this application. To avoid the multiplicity of the proceedings and to determine the real question in controversy between the parties, the present application needs to be allowed. The loss of time caused to the defendant no. 2 and 3 can effectively be compensated by way of

costs.

Accordingly, the following order is passed :

ORDER

The application (Exh. 24) is allowed and abatement against plaintiff no. 1 and defendant no. 2 is hereby set aside as well as delay caused in taking legal representatives on record is hereby condoned subject to costs of Rs. 300/- to be paid to defendant no. 1 and 3 in toto on or before next date.

Sd/-

Dharur  
Date: 16.08.2019

(Pritesh C. Deshpande)  
Jt. Civil Judge, (J.D), Dharur