

MHBI160008452017



Common Order below Exh. 33 and 35 in RCS No. 518/2017.
(Muktaji Lade Vs. Ramnath Lade)

Present applications are filed by plaintiff no. 1 for bringing legal representative of deceased plaintiff no. 2.

2. Perused the applications and say with record of the suit. It appears that the present suit is filed for permanent prohibitory injunction. It is contention of plaintiff no.1 that, original plaintiff no. 2 was died on 23/07/2018. After the death of plaintiff no.2 his legal representatives needs to be brought on record. However, delay is caused to it. Hence, he prayed to bring legal representatives of deceased plaintiff no. 2 on record and prayed for amendment of plaint accordingly alongwith condone the delay caused for bringing legal representatives of deceased plaintiff no. 2.

3. It is further contention of plaintiff no.1 that, after the death of plaintiff no. 2, other plaintiffs were out of station due to their work. Further there was Covid pandemic in Maharashtra. Therefore, he could not bring legal representatives of plaintiff no. 2 within limitation. Hence, plaintiff no.1 prayed to allow present applications.

4. Defendants opposed present applications by filing say on application itself. It is contentions of defendants that reasons mentioned in applications are not proper and reliable to condone the delay. After the death of plaintiff no. 2, other plaintiffs are present in the Court and they have filed evidence on record. In spite information given by defendants regarding death of plaintiff no. 2, other plaintiffs have not taken efforts to file application to bring legal representative of plaintiff no. 2. With this defendant prayed for rejection of applications.

5. Perused the record. Heard Ld. Advocates for both sides. Record shows that this suit is more than 7 years old. Plaintiff no. 2 was died on 23/07/2018. Plaintiff no. 2 is father of plaintiff no.1. On 11/12/2018 plaintiff no. 1 and 3 have filed pursis at Exh. 17 and informed death of plaintiff no.

2. Plaintiff no. 2 is family member of other plaintiffs. Therefore, other plaintiff were having knowledge of death of plaintiff no. 2.

6. Plaintiff no. 1 has mentioned reason for delay as he was out of station due to work and there was covid pandemic in Maharashtra. However record shows that, after the death of plaintiff no.2, plaintiff no.1 was present in this case. On 11/12/2018 he has filed chief affidavit at exh. 16. On the same day he has filed pursis exh. 17 to inform death of plaintiff no. 2. Thereafter plaintiff no. 1 was present in this case for several times. Despite of that, plaintiff no. 1 and 3 have not taken efforts to bring legal representative of deceased plaintiff no. 2. Further covid pandemic period was in the year 2020-2021 and the present application is filed on 11/10/2023. All these facts shows that reason assigned by plaintiff are not sufficient, satisfactory and bonafide to condone the delay.

7. In the present case there is huge delay of near about 5 years has been caused to bring legal representatives of plaintiff no.2. As stated above suit is more than 7 years old. Reasons mentioned for delay are not proper and reasonable. It is settled principle of law that while deciding applications of delay and setting aside abatement liberal approach needs to be taken. But, there should be reasonable ground to condone the delay. As stated above in the present case, I did not found any reasonable and sufficient ground to condone huge delay of 5 years. Plaintiffs have failed to explain acceptable reasons for delay. Hence, considering discussion, I did not found any merit in applications. In the result I pass following order.

Order

1. Applications Exh. 33 and 35 are hereby rejected.
2. Parties to note.

Date :19/10/2024.

(A.S. Jagtap)
Civil Judge, Jr. Division
Shirur Kasar.

"I affirm that the contents of this PDF file are word to word as per original Judgment/order".

Sd/-
[Sagar S. Ajabe]
Stenographer Grade-3

Dictated on : 19/10/2024
Transcribed on : 19/10/2024
Checked & signed on : 19/10/2024