

MHBU040004262016



Order below Exh.11
(Passed on 13/8/2024)

This is an application filed by the appellant/original plaintiff, on 27.4.2022, to permit him to bring the name of legal heirs of deceased respondent No.3 Dayabai Alias Sayabai Gulabrao Ardale on record by condoning the delay if any and even by setting aside abatement if any.

2. Say was called by the other side, but the other side failed to file their reply. Hence, application proceed without their say as per order dated 11.6.2024.

3. Heard Mr.S.V.Agrawal advocate for the appellant. He submitted that respondent No.3 Dayabai Alias Sayabai died on 23.11.2020. Therefore, her legal heirs required to be brought on record within the period of 90 days from the date of death and the period of 90 days has already lapsed. He submitted that there was out break of COVID 19 in the Nation and taking sumotou cognizance thereof. The Hon'ble Supreme Court has excluded the period of limitation for filing of suit, appeal, application and other legal proceeding till 28.2.2022. He submitted that as per direction of Hon'ble Supreme Court, such

proceedings of which a period of limitation has expired on or before 28.2.2022 those proceedings can be filed within three months after 28.2.2022 and if it is so filed then it shall be deemed to be filed within the period of limitation. He further submitted that appellant is old aged person and he could not make contact with his advocate. On 24.4.2022 appellant made inquiry about the process of the case with his advocate and he came to know about the death of respondent Dayabai. After getting information, he immediately filed the application.

4. As respondent No.3 died on 23.11.2020 as per dead certificate placed on record. Therefore, it is necessary to bring on record the legal heirs of deceased respondent No.3 within 90 days. Admittedly, during that time there was COVID 19 period and court was not functioning regularly. As per direction of the Hon'ble Supreme Court the limitation period has been excluded and the application has to be filed within three months from 28.2.2022. Present application is quiet within limitation from 28.2.2022. Therefore, application is deserves to be allowed. In result, I pass the following order :-

ORDER

- 1] Application Exh.11 is hereby allowed as per prayer.
- 2] Appellant to carry out amendment to the appeal memo accordingly within 14 days and to submit the copy of amended appeal memo accordingly.

Dt.13/8/2024

(G.B.Jadhav)
District Judge-1, Khamgaon.

RCA No.36/2016
Haridas V/s. Sheshrao & others

Certificate

I affirm that the contents of this P.D.F. file order are same word for word as per original order.

Name of Steno : Mrs.Nishat Anjum Mohd.Rafique.

Name of Court : District Judge-1, Khamgaon, Dist.Buldhana.