

CNR No. : MHCH040003182015

Order below Exh.17
in
Reg. Civil Appeal No. 24 of 2015
Suryabhan Damdu Dadmal
Vs.
Bhimrao Vithoba Kamadi +5
(Passed on 15th October 2024)

This application has been filed for condoning the delay and setting aside the abatement order for bringing on record the legal representatives of respondent no.4 Tarabai.

02) It is the contention of the appellant that respondent no.4 died on 12/01/2021. The appellants had no knowledge about the death of Tarabai and so there is delay of 02 years 09 months and 06 days in bringing on record the legal representatives of respondent no.4. The delay is not intentional hence the same be condoned and abatement order be set aside.

03) Respondent no.1 has objected this application on the grounds that, the names of legal heirs of respondent no.4 are not mentioned correctly. Instead of Naresh Mahadeo Giratkar it should be Narendra Mahadeo Giratkar and as regards the address of Vinod Mahadeo Giratkar the Tahsil is mentioned as Sindewahi when the tahsil is Nagbid. The reason for the delay is not satisfactory. Hence, the application be rejected.

04] Argument of both the parties is treated as heard.

05] Persuing the rival contentions and the documents on record it can be seen that, there is delay of 02 years 09 months and 06 days. The reason stated for the delay is that the appellants had no knowledge about the death of Tarabai as they are the residents of different villages. Though the respondents have stated that the reason for the delay is not genuine, but for the delay the application cannot be rejected because it will cause irreparable loss to the appellants as the appeal will be bad-in-law for non-joinder of necessary parties. For the delay cause it would be appropriate to allow the application by imposing costs. Hence the application deserves to be allowed. So I pass the following order:-

ORDER

- 1) Application is allowed.
- 2) The delay cause for filing of this application is condoned subject to costs of Rs.2,000/- to be paid to the respondents.
- 3) Abatement of respondent no.4 is hereby set-aside and the delay is condoned subject to payment of costs.

Warora.
Dt. 15/10/2024

(P. P. Abhang)
District Judge-1, Warora.