



By the present application, the plaintiff has prayed for setting aside the abatement caused due to the death of defendant no.1

2. It is contended that, defendant no.1 has died on 25.08.2025 and subsequently it came to the knowledge of the plaintiff that he is survived by his wife, sons and his daughters. Deceased defendant no.1 wife and two sons are already on record. Hence, it is necessary to bring on record the remaining legal representative of deceased defendant no.1 for the effective adjudication of the dispute and for avoiding any technical objection at the time of execution. Plaintiff is an aged and illiterate village lady and was not aware on legal requirements or the particulars of the legal representative of deceased defendant no.1. After obtaining the relevant revenue record and ascertaining the names of legal representative of the deceased defendant no.1, the present application came to be filed without further delay.

3. Defendants vide have filed to their say and objected the application contending that plaintiff was aware of the death of defendant no.1 as well as the identity of his legal representative since long. Hence, prayed for to reject the application.

4. Heard Learned Advocate Shri. V.L. Patil for plaintiffs and Learned Advocate Shri V.A. Pawar for defendants. Perused the application and say filed by the defendants.

5. It is settled law that while considering an application under Order XXII Rule 9 of C.P.C., the court is required to adopt liberal approach where sufficient cause is shown and where refusal to set aside the abatement would result in denial of adjudication on merits. Procedural law is intended to advance the cause of justice and not to defeat it. In the present case, the plaintiff has explained the circumstances under which the delay occurred. The application for bringing the legal representative on record and for setting aside abatement have been filed together. The proposed legal representatives are necessary parties for effective adjudication of the dispute. Though there is considerable delay the same can be compensated by costs. No irreparable prejudice would be caused to the defendants if the abatement is set aside, whereas refusal would result in the suit being decided without the necessary parties and may lead to multiplicity of proceedings. Hence, the present application is to deserves to be allowed subject to costs.

ORDER

1. Application vide Exh. 296 is allowed.

2. The abatement caused due to the death of defendant no.1 is set aside, subject to payment of costs of Rs.Rs.500/- to the defendant nos.1 to 4.

Date :- 15/07/2026.

(Harshada S. Admane)
Jt. Civil Judge Jr. Division,
Shindkheda Dist. Dhule.

CERTIFICATE

I certify that the contents of this PDF file are word to word as per Original Order.

Name of the Stenographer: Sachin A. Pardeshi,
Name of the Court : Jt. Civil Court J. D., Shindkheda,
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Sd/-xxx

Stenographer (Grade-III)