



ORDER BELOW EXH. 42 & 43.
(Passed on 04th day of February-2025)

These are applications filed by plaintiffs for condonation of delay and setting aside abatement to file application to bring legal representative of deceased defendant No.1 Mukunda Sampat Lute on record of the case. Defendants failed to file say on the applications, hence, same are proceeded without their reply.

2. Perused the applications, heard learned advocate for the plaintiffs. The applications shows that the defendant No.1 is died on 03.12.2023. It is contention of the plaintiffs that plaintiff No.1 was suffering from illness therefore she was not in position to visit any office for any kind of purpose. Therefore, the delay was caused to file the application to bring legal representative of deceased on record of the case. As the application is not filed within time therefore, after expiry of statutory time provided under law, the suit abates against the deceased. Hence, she moved the present application to set aside the abatement and to condone the delay caused to her to file bringing legal representative application of the deceased.

3. In view of above mentioned facts the plaintiffs filed the applications beyond 90 days from the date of death of the defendant no.1. The matter is in respect of permanent injunction. The rights of parties are appeared to be involved in this litigation. The reason of illness of the plaintiff No.1 is sufficient for filing condonation of delay applications. This court is satisfied that application filed by the plaintiffs for condonation of delay of more than 6 months if calculated to bring legal representative of deceased defendant No.1 on record of the case seems genuine. The legal representative of the deceased defendant No.1 is necessary for the purpose of determining the real

**R.C.S. No.08/2020
Uttara -Vs- Mukunda
MHGA050002020**

question in controversy between the parties and for the fair adjudication of trial. As the plaintiffs failed to file present application within time, it can be compensated by imposing certain costs. In the result I am inclined to pass the following order.

ORDER

1. The applications filed at Ex. 42 & 43 are allowed subject to depositing costs of Rs.500/- with the T.L.S.C, Desaiganj.
2. The abatement whatever is caused in the law to file the bringing legal representative application is hereby set-aside.
3. The delay to bring the proposed legal representative of deceased defendant No. 1 is condoned in the interest of justice.

Desaiganj:
Date:- 04/02/2025

[Satish G. Gore]
Civil Judge Junior Division,
Desaiganj.