

**BEFORE THE MEMBER INDUSTRIAL COURT, MAH., AT SANGLI****Complaint (ULP) No.31 Of 2019**

Sidram Keru Karande ..Complainant  
V/s

1) Vasantdada Shetkari Sahakari Sakhar  
Karkhana Ltd. Sangli. ..Respondents

**Orders Below Ex.U-10, Ex.U-12 & Ex.U-14**

(Date : 10<sup>th</sup> January 2023)

The application at Ex.U-10 has been filed seeking condonation of delay which is caused in filing application for bringing legal heirs on record. Application at Ex.U-12 is filed for setting aside abatement and application at Ex.U-14 is filed for bringing legal heirs on record of the complaint on account of death of complainant on 19/04/2020. In the application at Ex.U-10 it is contended that complainant is survived by his widow and children. The complainant is claiming monetary dues and hence right to sue survive to the legal heirs. Since the legal heirs have no knowledge about pending complaint when they approached the respondents for getting monetary dues they came to know about complaint filed in the court. Thereafter by approaching the advocate of complainant application for bringing legal heirs on record is filed. It is further stated that due to Covid-19 pandemic they could not file the application within time and hence prayed to condone the delay.

2. By application at Ex.U-12 it is prayed to set aside abatement of

the complaint and vide application Ex.U-14 it is prayed to add names of legal heirs in the complaint.

3. The aforesaid applications are protested by the respondents by filing say at Ex.C-23 and Ex.C-24. It is contended that the original complainant had died on 19/04/2020. However, this fact was not brought on record and without instructions an application at Ex.U-7 appears to have been filed by the learned advocate. After the death of complainant the learned advocate has no locus standi to file any application for production of documents. The application for delay condonation is also resisted on the ground that there are similar kinds of complaint filed by other persons and they are attending the court since long back but complainant was absent. Therefore, they might be knowing the fact of death of the complainant. The respondents denied that any legal heir of complainant had ever approached the respondents raising any sort of demand. It is also submitted that reason of non getting instructions due to restrictions imposed due to Covid-19 pandemic is false and baseless. The respondents also contended that the respondent itself is passing through a critical phase due to impact of provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the factory is given on auction for running on lease basis. It is contended that the application is filed very belatedly in which the legal heirs and learned advocate are not diligent and

hence the application requires to be rejected.

4. The application at Ex.U-12 and Ex.U-14 are resisted by filing say at Ex.C-24 stating that the contents thereof are false and baseless. There is no authorisation in the name of applicant Sandip Karande from other legal heirs. There is no proof that deceased is father of legal heirs. There is no proper compliance and the application is not made by adhering to provisions of law. It is therefore prayed that application be rejected.

5. Considering rival contentions following points arise for my determination and I record my findings thereon as follows -

<b><u>POINTS</u></b>	<b><u>FINDINGS</u></b>
1. Whether delay caused in filing application for setting aside abatement due to death of original complainant is liable to be condoned ?	In the Affirmative
2. Whether abatement is required to be set aside ?	In the Affirmative
3. Whether legal heirs are required to be added in the complaint as prayed for ?	In the Affirmative
4. What Order ?	As per final order

#### **Reasons**

6. **As to Point Nos.1 to 3** :- I have heard both the learned advocates. They have argued in the line of their respective application and say. However, it can be seen that the intention of filing these application is to bring the legal heirs on record due to death of original complainant. The original complaint is filed claiming

monetary benefits from the respondents and it cannot be said that right to sue cannot survive to the legal heirs. The respondents being third party cannot dispute the relation of the legal heirs with deceased in the absence of cogent proof to the contrary. In so far as delay condonation application is concerned it should be dealt with liberal approach. Admittedly during the year 2019 to 2021 there is Covid-19 pandemic due to corona virus. The country as well as State of Maharashtra was under lock down. Even the Hon'ble Supreme Court has taken cognizance of the same and passed orders extending period of limitation applicable under various statutes. The very fact that the complainant died on 19/04/2020 shows that his death took place during the peak period of Covid pandemic. It would be natural that legal heirs may not have any knowledge of pending litigation and they could not contact their advocate due to situation of Covid pandemic. Hence I do not find any malafides on the part of legal heirs who bonafidely wanted to prosecute the present complaint.

7. In the light of aforesaid discussion, I hold the delay caused in filing application for bringing legal heirs on record and for setting aside abatement deserves to be condoned. Abatement is required to be set aside by allowing the legal heirs of deceased complainant to come on record and prosecute the complaint. Hence I answer point Nos.1 to 3 in the affirmative and proceed to pass following order

**Order**

- (i) Applications at Ex.U-10, Ex.U-12 and Ex.U-14 are allowed.
- (ii) Delay caused in filing application for setting aside abatement is condoned, the abatement caused due to death of original complainant is set aside and the legal heirs are permitted to be added as legal heirs of deceased complainant in the original complaint.
- (iii) The complainant to carry out necessary amendment in the complaint and give copy of amended complaint within seven days.
- (iv) Dictated and pronounced in Open Court.

Date : 10<sup>th</sup> January 2023.

Place : Sangli.

(D.M. Patil)  
Member  
Industrial Court, Sangli