

MHKO050019902022



ORDER BELOW EXH. 32 REG. CIVIL SUIT NO. 211/2022

1. This is an application filled by the plaintiff to condone the delay for bringing legal heirs on record.
2. Plaintiff stated that suit is filed for declaration, injunction and partition. Defendant no.4 purchased some portion of suit property without the consent of plaintiff. So defendant no. 4 was required to be add party to this suit. After issuing summons and notice to defendant no. 4 it appears that he was died. Defendant no. 4 Aappaso Balku Koregave was died on 12.10.2021. It is necessary to bring legal heir of defendant no. 4 withing 90 days. Unavailability of information as to legal heirs of defendant no. 4, the abatement order was passed.
3. Defendant no. 4 was residing at Herle and plaintiff is residing so far way from defendant no. 4. Plaintiff immediately did not get the information of death of defendant no. 4. Between them Corona and lock down was going on. Hence, he could not add defendant no. 4 as party. Defendant no. 4 have wife, son and daughter. After the death of defendant no. 4 plaintiff collected death certificate of defendant no. 4 and filed application. So legal heirs of

defendant no. 4 are necessary. If application is allowed defendant will not suffer irreparable loss. Hence, prayed to condone the delay.

4. Legal heirs of defendant have filled their say on the same application and contended that plaintiff deliberately file this application to prolong the matter. He has not given documentary evidence alongwith. Hence, application be rejected with costs.

5. Heard advocate of both sides. It appears that from the date of death of defendant no. 4 there is near about three years delay in bring legal heirs of defendant no.4. The reason of plaintiff that Corona, lockdown and give information and to collect death certificate are not acceptable. Therefore, it appears to be delay on the part of plaintiff. Hence, it needs allowed by imposing some costs on the plaintiff, as the delay seems to be on the part of plaintiff. Hence, the order

ORDER

Application is allowed subject to costs of Rs.1000/- be paid to the defendants.

Ichalkaranji
Date: 22.10.2024

(S. S. Pednekar)
4th Jt. Civil Judge Junior Division,
Ichalkaranji