

MHKO050021622016



ORDER BELOW EXH. 111 REG. CIVIL SUIT NO. 145/2016

1. This is an application filled by the plaintiff to condone the delay for bringing legal heirs on record.

2. Plaintiff has stated that defendant no. 5 Shamshuddin Gulab Gawandi was died on 30.10.2020. There is delay of three years one month and eight days to bring legal heirs of defendant no. 5. Defendant no. 5 is necessary party in the suit, her legal heirs is also necessary parties in the suit. Plaintiff is widow woman. She is illiterate. She has no knowledge of law. She did not bring legal heirs on record due to corona and lock down. Hence, she prayed to set aside said abatement order passed against the defendant no. 5.

3. Defendant no. 2 has filled his say at Exh. 113 and contended that defendant no. 5 was died on 30.10.2020. After 90 days defendant no. 5 was automatically abated. There is three years delay. There is no reason mentioned to delay the matter. The reason of illiteracy is not acceptable. Plaintiff and defendant are nearby resident. Defendant no. 5 is brotherhood of plaintiff, so reason that plaintiff does not know about death of defendant no. 5 is not

acceptable. The legal heirs of defendant no. 5 is residing in their share. Plaintiff know names of all legal heirs of defendant no. 5. Plaintiff know that defendant no. 5 was died, then plaintiff filed his affidavit. If delay condone application is liable to rejected, then there is not question of amendment application. Hence, prayed to reject the same with costs.

4. Heard advocate of both sides. It appears that from the death of death defendant no. 5 there is delay of above three years. The reason of plaintiff that she is illiterate and Covid reason is 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 defendant.

Ichalkaranji
Date: 21.03.2024

(S. S. Pednekar)
6th Jt. Civil Judge Junior Division,
Ichalkaranji