

**MHKO050044502019**



**ORDER BELOW EXH. 46 REG. CIVIL SUIT NO. 335/2019**

1. This is the application of plaintiff for setting aside abatement under Order 22 Rule 9 of Code of Civil Procedure.

2. The plaintiff stated that defendant no.1 Balasaheb Jangonda Patil has died on 25.03.2022. After knowing that defendant no. 1 was dead, plaintiff has filed this application. Due to the ignorance of law, delay caused to bring legal heirs of defendant no. 1. Hence, prayed to set aside the abatement order passed against the defendant no.1.

3. Defendant has filled his say and stated that he has not mentioned how much was caused to bring legal heirs on record. It is necessary to mention in application specifically when delay start and ends. Reason is not mentioned in this application why he has delay to filed this application. Hence, prayed to reject the same with cost.

4. Heard advocate of both sides. It appears that there is no cogent reason in the application. The defendant no. 1 has died on 25.03.2022 The ignorance of law is not acceptable. The plaintiff has

not stated anything about the same, Hence, already one and half years has lapsed from date of death, Hence, it is necessary to impose cost to compensate the other side, Hence, the order.

**ORDER**

1. Application at Exh. 45 is allowed subject to cost of Rs.500 /- and abatement order is set aside.
2. Plaintiff is allowed to bring heirs of defendant no. 1 subject to compliance of cost.

Ichalkaranji  
Date: 26.10.2023

(S. S. Pednekar)  
6<sup>th</sup> Jt. Civil Judge Junior Division,  
Ichalkaranji