



REGULAR CIVIL SUIT NO. 12/2016
(Suresh Harale - Vs. - Bapu Harale & Oth.)
COMMON ORDER BELOW EXH. 23 & 24

Vide these applications, plaintiff has requested for condonation of delay in bringing legal representatives of defendant No. 1 on record, as well as for permission to bring said legal representatives on record. Say of other side was called, but nothing is filed on record. Thus, the applications to proceed without say.

02. Perused application. Also perused record and proceeding. From the contentions on record, it is seen that defendant No. 01 Bapu Keraba Harale expired on 30/12/2019 and both these applications are filed on record on 16/12/2023. Accordingly, *prima facie*, it is seen that there is a delay of more than 3 years and 8 months. However, Hon'ble Apex Court in **Suo Motu Writ Petition (Civil) No.3/2020 In Re: Cognizance for Extension of Limitation** directed vide order dated 10/01/2022 that "the period from 15/03/2020 till 28/02/2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings."

03. Therefore, in the light of above said directions of Hon'ble Apex Court, I am of the view that there is delay of about 21 months to brought on record legal representatives of deceased defendant No. 01.

04. It is seen that the suit is for partition and separate possession. After the death of defendant No. 1 right to sue survive against his legal representatives. Considering the

reasons putforth for the delay, and since there is no serious contest for the said reasons, I do not find any reason to disbelieve the plaintiff. Considering the nature of dispute involved in the matter and the delay caused for the cause, I am of the view that both the applications can be allowed by saddling costs on the plaintiff for the delay. Thus, following order:-

ORDER

1. Applications (Exh. Nos. 23 & 24) are allowed subject to costs of Rs. 1,000/- (in words Rupees One Thousand only) to be deposited in the Court, payable to legal representatives of deceased defendant No. 1.
2. If legal representatives of deceased defendant No. 1 failed to appear, the said amount be credited to the Government.
3. Plaintiff shall also to carry out suitable amendment in the plaint and to file amended plaint on or before next date.
4. After filing of amended plaint, notices be issued to legal representatives of deceased defendant No. 1 Bapu Keraba Harale.
5. In failure of compliance of any of the above by plaintiff on or before next date, the suit will automatically stands abated against deceased defendant No. 1 Bapu Keraba Harale.
6. This original order be kept below Exh. 24.

Sd/-

(**Anand D. Karbhajan**)

Place - Jaysingpur.
Date - 22/01/2024

Joint Civil Judge Junior Division,
Jaysingpur, Tal. Shirol, Dist. Kolhapur.

Note - The validity of digital signature of Presiding Officer has expired.

-: Certificate :-

I affirm that the contents of the P.D.F. file judgment / order are same, word to word, as per the original judgment / order.

Name of Stenographer	Mrs. Pallavi V. Sasane
Name of Court	Jt. CJJD & JMFC, Jaysingpur, Tal. Shirol, Dist. Kolhapur.
Date of Decision	22/01/2024
Judgment / Order signed by the P.O. on	22/01/2024
Judgment / Order uploaded on	23/01/2024