

MHKO070001051998 	<u>ORDER BELOW EXH.182 IN</u> <u>R.C.S.No.150/1998</u> Swastishri Jinsen Bhattarak Pattacharya Mahaswami Math Sansthan, Kolhapur and another Vs. Kamal Shamgonda Patil and others
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01. This application is filed for condonation of delay in carrying out amendment in the plaint as per Order VI Rule 18 and Section 151 of Code of Civil Procedure.

02. According to the plaintiffs, they had filed application under Order I Rule 10(2) of Code of Civil Procedure for requesting to substitute the names of the news trustees, namely plaintiff no.2A, 4A, 8A and 10A, in the placed of deceased plaintiff nos.2, 4, 8 and 10 respectively. This application was allowed on 05/04/2019, and the Hon'ble Court had directed the plaintiffs to carried out amendment and filed the amendment copy of the plaint on record within 14 days accordingly. Plaintiffs have submitted the amended plaint on 18/04/2019 on record. But plaintiffs had failed to required amendment as per order on Exh.1.

03. According to the plaintiffs, they did not intentionally avoid amendment the plaint. Said amendment remained due to an oversight, and there was no dishonest intention for delay the amendment. Mistake occurred in good faith. Plaintiffs and defendants have proceeded with the case since 05/04/2019 under

the mutual understanding that the amendment had taken carried on. Plaintiff no.8A has submitted examination in chief on record and defendants have taken cross-examination of plaintiff no.8A without raising any objections regarding the amendment. Delay is not deliberate or due to any malafide intention on the part of the plaintiff. They prayed the said amendment will remove a technical hurdle and enable the case to proceed on its merits. Plaintiffs have prayed for condoned delay and permission may be granted to carry out the amendment.

04. Defendants have strongly objected this application. They submitted that, the said application is not maintainable under provision of law. Plaintiff has failed to carry out amendment within time limit. Delay of reason is not proper. Said amendment is not technical in nature. They prayed that the present application of amendment be rejected.

05. Perused records, heard. The present application is filed by the plaintiff under Order VI Rule 18 and Section 151 of Code of Civil Procedure for seeking permission to carry out the amendment at Exh.1 as per the order dated 05/04/2019. Plaintiffs have filed amended plaint within the prescribed time. The amendment carried out at Exh.1 due to oversight. The plaintiffs prayed for permission to carry out amendment as per order. It appears that, the amendment was already allowed by the Hon'ble Court, the plaintiff have given sufficient reason for delay. There is no substantial prejudice will be caused to the defendants

if the application allowed at this stage. In the interest of justice, the delay deserved to be condoned. Hence I pass following order -

ORDER

1. The application is allowed with cost of Rs.700/- paid to the defendants.
2. The delay in carrying out the amendment at Exh.1 is condoned after payment of cost.
3. The plaintiffs are permitted to carry out the said amendment within 07 days from this order.

Date- 02/08/2025
Jaysingpur

(V. M. Kolekar)
3rd Jt. Civil Judge, Jr. Dn.,
Jaysingpur.