

MHKO070007392016



R.C.S.No.140/2016

**Shri.Sultan Aappalal Mujawar  
Vs.Shivaji Shankar Powar etc 9.**

**ORDER BELOW EXH. NO.25**

Perused application and say. Heard both the sides. Applicants prayed for condoning the delay caused for taking the Lrs of the deceased plaintiff no.1 namely Sultan Aappalal Mujawar on record. The learned advocate for the defendants endorsed their say on the application and submitted that plaintiff has not mentioned specific reason. Therefore, application be rejected.

2. Applicants submitted that, after the institution of the suit the plaintiff no.1 died on 11/11/2021. Thereafter, the legal heirs of the plaintiff No.1 needs to be brought on record within 90 days. Applicant has not made able to contact with their advocate and proceed further as per rule, the delay caused is not intentional, if the present application is not allowed then irreparable loss would cause to the applicant. Hence, applicant prayed for allowing the application.

3. Per contra, The learned advocate for the defendants endorsed their say on the application and submitted that plaintiff has not mentioned specific reason. Therefore, application be rejected.

4. The present suit is for permanent injunction in respect of the suit property. It is necessary that every suit to be decided on the merit. On perusal of the suit it seems that there are valuable rights of the Lrs of the plaintiff no.1 is involved in the suit. If the Lrs of the plaintiff

no.1 has not given the opportunity to contest the suit then they will suffer the huge loss. The right to sue in respect of present Lrs of the plaintiff no.1 survives. As per the order of Hon'ble Apex Court in Suo-moto Writ Petition no.3/2020 the period in between 15/03/2020 to 28/02/2022 needs to be exempted in view of spread of Covid-19. The plaintiff No.1 died on 11/11/2021 while the present application is filed on 17/04/2023. Hence, it reveals that the present application is to some extent jump over the excluded period. However, the said delay caused can be compensated in terms of money. Hence, I pass the following in the interest of justice.

**ORDER**

1. Application is allowed and delay is hereby condoned subject to depositing the cost of Rs.500/- .
2. The cost be given to the defendants on or before next date.
3. Parties to take note accordingly.

Date:- 15/07/2024

**(A.T.Mangire)**  
2<sup>nd</sup> Jt. Civil Judge, Jr. Div.,  
Jaysingpur

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

Name of the Stenographer	Shri.R.L.Mane.
Name of Court	2 <sup>nd</sup> Jt.C.J.J.D.& J.M.F.C., Jaysingpur.
Date of Dictation.	15/07/2024.
Judgment/order signed by the PO on	15/07/2024.
Judgment/order uploaded on	15/07/2024.