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Reg. Civil Suit No. 301/2012.
CNR NO.: MHKO07-000882-2012.

COMMON ORDER PASSED BELOW EXH.34 AND 35

These applications are filed by plaintiffs for condonation of delay in filing application for setting aside abatement of suit against defendant No.2 and to bring on record legal heirs of defendant No.2 Tarabai Vanjare, who has died on 27.2.2013.

2. Notice was issued to legal heirs of deceased defendant No.2 as to why delay should not be condoned and they should not be taken on record as legal heirs of deceased defendant No.2.

3. In spite of service of notice, legal heirs of deceased defendant did not appear in this matter and hence this application proceeded further without say of legal heirs of deceased defendant No.2. However, other defendants filed their say and opposed to allow this application contending that delay is not properly explained and if application is to be allowed, they prayed to impose cost of Rs.5000/-.

4. Heard both sides and gone through the record. It is necessary to mention here that plaintiffs in their

application have not stated any reason for non bringing legal heirs of deceased defendant No.2 on record within stipulated time. They have not given explanation for delay of five years. Though plaintiffs have not explained delay, on that ground alone I do not deem it proper to reject this application. In this matter, yet trial is to be commenced and hence in order to decide this suit on merit, permission needs to be given to plaintiff to bring on record legal heirs of deceased defendant No.2 on record. So far as delay is concerned, same can be balanced by imposing cost on plaintiff. In result, I pass following order.

ORDER

- (1) Applications are allowed subject to cost of Rs.2000/- payable by plaintiffs.
- (2) Cost amount be credited to Government.
- (3) Plaintiffs to deposit cost amount on or before next date and shall carry out necessary amendment in the plaint and shall supply amended copy on record on or before next date.
- (4) In case of failure to deposit cost amount, carry amendment and supply amended copy within time, said order will stand cancelled automatically and matter will proceed further.

Sd/-

(K.G. Sawant)

Civil Judge Senior Division,
Jaysingpur.

Dt.: 01.12.2018.

