

MHKO070022292023 	<u>COMMON ORDER BELOW EXH. 29 AND</u> <u>36 in</u> <u>Regular Civil Suit No.176/2023</u> Rangrao Dattu Kadam Vs Vitthal Dattu Kadam etc 4.
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The present application is filed by the plaintiff for condoning delay and setting aside abatement and bringing the legal representatives of the deceased defendant No.1 namely Vitthal Dattu Kadam on record. According to plaintiff, the defendant No.1 Vitthal Dattu Kadam died on 16/03/2025. The Ld. Advocate for the defendants by filing their say overleaf of this application and contended that, the contentions of this application are bogus and false. Therefore he prayed for the rejection of the present applications with heavy costs.

02. Perused the record. This application is supported by affidavit stating therein the reason for delay. Upon perusal of death certificate at Exh.28/1, it seems that the defendant No.1 died on 16/03/2025. No doubt the present application is not filed within 90 days from the death of the defendant no.1. Therefore, the suit is abated against the defendant no.1. However, the plaintiff is filed the application at Exh.36 within the limitation i.e. 60 days from the date of formal abatement order. Though the reasons mentioned in the application is not satisfactory still considering the nature of the suit and to settle all the questions/facts in dispute it is necessary to grant permission to the plaintiff to bring the legal

representatives of defendant No.1 on record by setting aside abatement order. Moreover, there is no dispute regarding the legal representatives of the deceased defendant No.1. As far as delay caused by the plaintiff should not be ignored, it would be compensated by imposing costs on the plaintiff. It is therefore necessary in the interest of justice to allow these applications. In turn I pass following order.

ORDER

1. Application at Exh.36 is allowed subject to costs of Rs.200/- to be credited to Government.
2. The formal abatement order passed against defendant No.1 is set aside.
3. The plaintiff is allowed to bring legal representatives of defendant no.1 on record as mentioned in the application at Exh.29.
4. Plaintiff is directed to carry out necessary amendment and accordingly file amended copy of plaint on or before next date.

Date : 30/09/2025

(M. S. Patil)
2nd Jt. Civil Judge, Junior
Division, Jaysingpur.