



ORDER PASSED BELOW EXH.56
IN SPECIAL CIVIL SUIT NO.02/2013

[CNR No.MHKO090000192013]

The present application is filed under Order 22 Rule IV(5) of the Civil Procedure Code and Section 5 of the Limitation Act read with Section 151 of CPC for condonation of delay, setting-aside the abatement and bringing legal heirs on record.

2. Perused the application and say filed thereon. It manifest from the application that the plaintiff submitted that the defendant no.3 and the plaintiff no.5 are the Class-II heirs of deceased defendant and rest of the plaintiffs are Class-III heirs of late defendant no.1. Hence, the suit is not abated against defendant no.1 as already some of the legal heirs are on record. It is the contention of plaintiff that there is no willful default or negligence on the part of plaintiff for not filing the application within the prescribed period.

3. The present application is strongly opposed by the defendants and requested to impose heavy cost, if the application is allowed.

4. Heard both the sides. I have gone through the record

of the proceeding. It appears that there is already legal representative of the deceased on record. However, some of the legal heirs are not brought on record by the plaintiff. Therefore, to that extent, the abatement order was passed. However, considering the reason mentioned in the application and to decide the real controversy between the parties and for proper representation of the defendant, I am of the view that the delay can be condoned but subject to the cost of Rs.300/-. Hence, the following order :-

ORDER

- 1] The application Exh.56 is allowed subject to the cost of Rs.300/- (In Words Rupees Three Hundred Only). The cost shall be paid to the Taluka Legal Services Authority, Gadhinglaj.
- 2] The delay caused in bringing legal representatives of deceased defendant no.1 is hereby condoned and the abatement is set-aside.

Place : Gadhinglaj.
Date : 25.06.2024.

(N. S. Puri)
Civil Judge Senior Division,
Gadhinglaj