



ORDER PASSED BELOW EXH.29
IN REGULAR CIVIL SUIT NO.129/2023

[CNR No.MHKO090002302023]

The present application is filed by plaintiff for setting aside the abatement against defendant no.7-A-III Mainabai Santu Patil on record. It is contended by plaintiff that to obtain the death certificate, there was some time consumed and therefore, the abatement order was passed against defendant no.7-A-III. Hence, it be set-aside.

2. The defendant nos.1 to 4 objected the application vide Exh.38 on the ground that the present application is totally false, baseless. The instant application is untenable in law. There is delay of more than 11 months and proper explanation is not assigned. Therefore, the application is liable to be rejected with cost of Rs.5000/-.

3. I have given thoughtful consideration to the arguments advanced by both the sides. It is well-settled principle that while dealing with the setting-aside of abatement application, the view of Court should not be hyper-technical, in fact, elastic approach should be adopted. The present suit is for declaration and permanent injunction. From the application, it appears that the delay for bringing the LRs on record is not intentional,

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therefore, if the abatement order is set-aside and legal heirs are brought on record, then the matter in controversy can be decided conclusively. Thus, I pass the following order :-

ORDER

The abatement against defendant no.7-A-III is hereby set-aside.

Place : Gadhinglaj.
Date : 25.03.2025.

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