



Common Order Below Exh. 40, 41 and 42 In RCS
No. 54/2017
CNR No. :- MHKO110004162017
Passed on 20/07/2022

- 01.** By the aforesaid applications, the plaintiff is seeking liberty to bring legal representatives of the deceased defendant No.3 and 23 on record by setting aside abatement and condoning delay.
- 02.** The defendant Nos. 1 to 6, 8, 9, 11 to 14 have filed their say on same application at Exh.40 to 42, in spite of service of summons proposed Lrs of defendant No. 3 i.e. 3(1) to 3(4) failed to appear and filed their respective say.
- 03.** I have heard the learned advocate for plaintiff and defendant at length.
- 04.** The plaintiff has stated that there are no other legal representatives of the deceased defendant No.3 and 23 except those are mentioned in the instant application. The applications are supported by an affidavit. Admittedly, the defendant No. 3 Sukhdev Krushna Naik is died on 10/05/2019 and defendant No. 23 Balkrushna Nilkhanth Survyanshi is died on 16/01/2018 instant applications are filed on 18/09/2019. Therefore, the plaintiff ought to have file instant application within period of 90 days from the date of death of deceased defendant No.23. On perusal of applications, the reason mentioned lack of knowledge of fact is sufficient to condone the delay. However, it is not the contention of defendant No. 1 to 6, 8, 9, 11 to 14 that, proposed Lrs. are not Lrs. of defendant No. 3 and 23. Thus, considering the circumstances of the instant case and for proper adjudication of the matter, I am of the considered view that it is necessary to allow the applications to bring legal representatives on

record by setting aside the abatement so caused and condoning delay subject to some cost. Hence, I proceed to pass the following order.

ORDER

1. Applications are allowed.
2. The abatement caused in bringing legal representatives of the deceased defendant No. 3 and 23 on record is hereby set-aside subject to payment of cost of Rs.300/- to be paid to the defendants No. 1 to 6, 8, 9, 11 to 14.
3. The plaintiff is allowed to bring legal representatives of the deceased defendant No.3 and 23 on record within period of 14 days.

Date : 20/07/2022
Peth-Vadgaon.

(S. D. Sonawane)
Jt. Civil Judge Junior Division,
Peth-Vadgaon.