



Regular Civil Suit No. 56/2017

CNR No- MHKO110004182017

ORDER BELOW EXH. 28

Smt. Akkabai Appa Naik and others ----- Plaintiffs

Vs.

Bapu Krushna Naik & others ----- Defendants

1. Perused the application. Application filed by plaintiffs under Order 22 rule 4 of the Code of Civil Procedure, 1908 and prayed for taking L.R.'s on record of plaintiff No. 4 Rajaram Appa Naik who has reported to be died on 23/01/2020.

2. Caption suit filed by plaintiffs against defendants for removing encroachment under Sec. 20 of Specific Relief Act. Plaintiffs contended that, due to pandemic situation of Covid-19 nation wide lock down was announced and the senior citizens were not allowed to remain present in the court. Therefore, the legal representatives of plaintiff No. 4 were brought on record in time. Deceased plaintiff No. 4 is surviving by legal heirs, therefore right to sue survives.

3. Defendant filed their say of over leap of this application and strongly objected this application. The reason is not mentioned in this application about delay and plaintiff have to produced separate delay condonation application but he failed to do so. Hence, defendants prayed for rejection of this application.

4. Perused the application. After perusal of application it reveals that, delay to file application of taking legal representatives of plaintiff No. 4 is approximately of one year one months and 13 days.

5. The application to bring legal representatives of plaintiff No. 4 filed on record today i.e. beyond 90 days from the date of plaintiff No. 4 as prescribed in Article 120 of the Limitation Act. The application is supported by affidavit stating that delay caused to file application due to pandemic situation in India. Reasons shown by the application since to be genuine. Right to sue survives to the heirs of plaintiff No. 4. Hence, in the interest of the justice abatement needs to be set aside by condoning delay in order to enable court effectually and completely adjudication upon and to settled the question involving the present suit. Therefore it is necessary to allow application to bring on record the legal representative of plaintiff No. 4 Rajaram Appa Naik. Hence, following order is passed.

ORDER

- 1 Application is allowed.
- 2 Plaintiffs are directed to bring legal heirs on record of deceased plaintiff No. 4 within 14 days from the date of the order.
- 3 Plaintiffs to comply the order and to file amended copy of plaint within stipulated period.

Dt. 08/03/2021

(C. S. Deshpande)

Jt. C.J.J.D. & J.M.F.C., Peth-Vadgaon.