


<p>MHKO110008442012</p> 	<p><u>Order Below Exh. 142</u> <u>RCS No. 333/2012</u></p> <p>Nana Kambale and Ors</p> <p>Vs.</p> <p>Hirabai Kambale and Ors.</p>
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The present applications are filed by the plaintiffs for bringing the legal heirs of the deceased plaintiff No.3(2) on record by setting aside the abatement. The defendant has filed his say on the overleaf of the same application and prayed that necessary order be passed.

02. Perused the record. Heard the learned advocate for plaintiffs and defendants at length.

03. The Advocate for the plaintiffs submitted that, the plaintiff No.3(2) Vikas Sitaram Kambale has demised on 22/07/2024. Therefore, the legal heirs of plaintiff no.3(2) ought to have been brought on record. However, due to lack of knowledge the plaintiffs could not reach the Advocate for giving instructions and documents. There is a delay and it is not deliberate. Therefore, he prayed to allow the said application.

04. The advocate for the defendants has strongly objected to the said application that it is not in accordance with law. There is a delay of 1 year 1 month and 11 days. The plaintiffs had knowledge about the demise of the plaintiff no.3(2). The delay caused is deliberate. Necessary cost be imposed upon the plaintiff for the delay caused. Hence, he prayed to reject the application.

05. On perusal of record it appears that, the present suit is filed for declaration and permanent injunction against the defendants. The matter is posted for final arguments. The plaintiff had filed death certificate of plaintiff no.3(2) on record. On perusal of the death certificate it appears that the defendant No.3(2) has demised on

22/07/2024. There is delay of 1 year 1 month and 11 days for taking the legal heirs of defendant no. 3(2) on record. The reason given by the plaintiff does not seem to be justified. However, considering the fact and circumstances of the present case, for proper adjudication in the matter and to avoid the multiplicity of proceeding, it is necessary to allow the applications to bring legal heirs on record by setting aside the abatement so caused. The delay of 01 year 1 month and 11 days is condoned subject to payment of cost to the defendant. Mere technical difficulties can not be a valid ground for setting aside the abatement. The casual approach of the plaintiffs cannot be overlooked. It needs to be compensated by imposing costs on the plaintiff. No loss or prejudice will be caused to either parties if the present application is allowed. Hence, in the interest of the justice, the following order is passed :-

ORDER

1.	Application is allowed.
2.	The abatement caused in bringing the legal heirs on record is set aside subject to payment of cost Rs. 300/- (Rupees Three Hundred Only) to the defendant.

Date : 11/09/2025
Place: Peth-Vadgaon

sd/-
(R. S. More)
3rd Jt. Civil Judge J. D., Peth-Vadgaon