

MHKO110009902022 	<u>ORDER BELOW EXH. 41</u> <u>IN RCS No. 132/2022</u> <u>Shrikant Balwant More</u> <u>Vs.</u> <u>Dhanaji Baburao Patil</u>
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The present application is filed by plaintiff for setting aside the abetment caused in bringing the legal representatives of the deceased defendant No. 24 on record.

02. Perused the record. Heard the advocates for both sides.

03. The learned advocate for the plaintiff submitted that, the defendant No. 24 Smt. Sakhubai alias Shakuntala Ramchandra Pawar has demised on 15.03.2023 and that her legal representatives should have brought on record by 14.06.2023. As the plaintiff did not have sufficient information in respect of the legal representatives of deceased defendant No. 24, they could not be brought on record within time as the death certificate of the defendant No. 24 could not be received in time. Therefore, there is a delay of approximately 36 days to setting aside the abetment. Therefore, he prayed that, the application be allowed and the abetment caused in bringing legal representatives on record be set aside.

04. The Ld. Advocate for the defendant submitted that, the reason mentioned for condoning the delay is not reasonable. He therefore prayed to reject the application.

05. On perusal of the record it appears that, the present suit

is filed for partition and separate possession against the defendants. Prima facie it appears that, the defendant No. 24 has demised on 15.03.2023, the presence of her legal representatives is necessary in order to enable all the parties to the suit to get an effective relief in the suit if it is decreed and to finally decide the issues involved in the suit on merits. Hence, it is necessary to make them party in the suit.

06. As per the order passed below Exh. 42, the delay of 36 days is condoned. Hence, it is also necessary to set aside the abetment caused in order to enable the plaintiff to bring the legal representative of defendant No. 24 on record. If permission is granted to the plaintiff to bring legal representatives on record, no prejudice will be caused to the defendants as they have an opportunity to defend themselves. Therefore, it is not necessary to impose costs on the plaintiff. Hence, the following order is passed :-

ORDER.

1. Application vide **Exh. 41** is hereby allowed.
2. The order of abetment is set aside.
3. No order as to costs.

Sd/-

(R. S. More)

Peth-Vadgaon.

Date : 26/03/2025.

3rd Jt. Civil Judge, Jr. Dn., Peth-Vadgaon.