

MHKO110014022019 	<u>Order Below Exh. 44 In</u> <u>RCS No. 151/2019</u> <u>Mohan Shankar Gurav</u> <u>v/s</u> <u>Ravindra Shankar Gurav and Ors.</u>
---	---

The present application is filed by the plaintiff for bringing the legal heirs of the deceased defendant no. 1 on record by setting aside the abatement. The defendant no. 1(A), 1(D) and 1(E) have filed their say on the overleaf of the same application and have strongly objected to it.

02. Perused the record. Heard the learned advocate for both sides.

03. The Advocate for the plaintiff submitted that, the defendant No. 1 Ravindra Shankar Gurav has demised on 06/05/2025. Therefore, the legal heirs of defendant no. 1 ought to have been brought on record. Previously, the plaintiff had filed an application for bringing the legal heirs of deceased defendant no. 1 on record. However, due to typographical mistake, the names of defendant no. 2 and 3 were mistakenly recorded. Therefore, there is delay in filing the application. Therefore, he prayed to allow the said application.

04. The advocate for the defendants have submitted that, the plaintiff had knowledge about the demise of defendant no. 1. However, the plaintiff deliberately caused delay in filing the application. Hence, they prayed to reject the application with cost.

05. On perusal of record it appears that, the present suit is filed for partition and permanent injunction against the defendants. The plaintiff has filed death certificate of deceased defendant no. 1 on record. On perusal of the death certificate it appears that the defendant no. 1 has demised on 06/05/2022. However, on 17/08/2023 the plaintiff has preferred an application for taking legal heirs of deceased defendant no. 1 on record. There is delay of approximately 1 year for taking the legal heirs

on record. The reason given by the plaintiff does not seem to be justified.

06. However, considering the fact and circumstances of the present case, for proper adjudication in the matter, to avoid the multiplicity of proceeding and further delay, it is necessary to allow the application to bring legal heirs on record by setting aside the abatement so caused. The delay of approximately 1 year is condoned subject to payment of cost to the defendants. 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 at Exh. 44 is allowed.
2.	The abatement caused in bringing the legal heirs on record is set aside subject to payment of cost Rs. 100/- (Rupees One Hundred Only) payable to the Taluka Legal Aid Services Authority.

Date : 02/07/2026

Place: Peth-Vadgaon

sd/-

(R. S. More)

4th Jt. Civil Judge J. D., Peth-Vadgaon