

MHKO120005132019



**Reg.Civil Suit No.124/2019**  
(CNR No.MHKO110005132019)

**Order below Exh.13**

This is an application filed by the plaintiffs to bring legal heirs of defendant No.2 and 3 on record by canceling order of abatement and condoning the delay.

02. Plaintiffs submitted that, the present suit has been filed for specific performance of unregistered deed dated 24/10/1996 and perpetual injunction against defendants which is pending before this Court. They also submitted that, they got knowledge of death of defendant No.2 and 3 by bailiff report. After investigation the plaintiffs file present application.

03. The record disclosed that, the summons not duly served to defendants on account of death of defendant No.2 and 3.

04. Perused the record. Heard the learned advocate for plaintiffs. Perusal of record shows that, defendant No.2 and 3 died in the year 2021 and the present application is filed on 24/11/2022. The application has to be filed within 90 days, therefore, the delay is caused. The reasons for the applications are well-founded. Moreover, it is well-settled that liberal view is required to be taken while deciding applications for setting-aside abatement. In the circumstances, the application has to be allowed. Hence, I pass following order.

## **ORDER**

- 1) The application at Exh.13 is hereby allowed subject to costs of Rs.500 [Rs.Five Hundred], it be paid to Legal Aid.
- 2) The abatement order passed against defendant No.2 and 3 is hereby set aside.
- 3) Delay caused for taking legal heirs of deceased defendant No.2 and 3 is hereby condoned.
- 4) Application at Exh.13 is disposed off accordingly.

Date : 19/06/2023

( V. B. Mulla )  
Civil Judge Junior Division,  
Gargoti