



COMMON ORDER BELOW EXH. 42 & 43 IN
R.C.S.No.68/2018

1. These applications are filed by plaintiffs' for setting aside abatement, to condone the delay and for taking LR's on record.

2. According to the plaintiffs', defendant no. 6 died on 04/02/2021. The death certificate is filed on record vide Exh.44. According to the learned advocate for the plaintiffs', the cause of action survive. It is argued that, during the pandemic situation they can not approach before the court. Hence, they prayed to set aside abatement as well as prayed to condone the delay with permission to add LR's for defendant no. 6 in the suit.

3. The proposed LR's of defendant no. 6 i.e. defendant no. 6(A) & 6(B) are duly served at Exh. 45. LR's of defendant no.6 are appeared. However, failed to filed their say to this application. Hence, application proceeded without the say of LR's of defendant no. 6. Further, other defendants also failed to filed their say to this application, hence, this application being uncontested, this court proceeded further.

4. I have perused the record. Heard learned advocate for the plaintiffs'. Learned advocate for the LR's of defendant no. 6 is absent on call.

5. In the present matter defendant no. 6 died in

pandemic period i.e. on 04/02/2021. Moreover, delay is huge. For proof of reasons mentioned in the application, the plaintiffs' have filed death certificate of defendant no. 6. Till 28/02/2022 Hon'ble Supreme Court extended the period of limitation vide Suo motu Writ Petition No.03/2020 decided on 10th January, 2022. Thus, limitation period started in this case from 01/03/2022. However, this application is moved on 22/07/2024. His LR's have not contested, hence, application is proceeded without say. Having regard to articles of Limitation Act, all the applications are beyond limitation. However, considering delay, nature of relief costs is required to be imposed upon plaintiff. Thus, considering nature of litigation, age of the parties, it will be just and proper to allow all applications (Exh. 42 & 43) with costs of Rs.300/- be paid to the state. After payment of costs, the plaintiffs' shall bring the LR's of deceased defendant no. 6 on record on or before next date. Plaintiffs' shall file the amended plaint within stipulated time. The plaintiffs' shall carry necessary corrections in the plaint and to proceed with the suit expeditiously after payment of costs.

Kagal
Date:- 14/11/2024

(B.D.Gore)
Civil Judge Junior Division,
Kagal.