



Vilas Patil etc. Vs. Balwant Patil etc.

CNR - MHKO130001342018

COMMON ORDER BELOW EXH. 35, 36 & 37 IN
R.C.S.No. 94/2018

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. 1 died on 15/02/2022. The death certificate is filed on record. According to the learned advocate for the plaintiffs', the cause of action survive. Moreover, plaintiffs' have no knowledge of law. Therefore, they could not approach before their advocate within time to set aside the abatement and to add the LR's of defendant no. 1. Hence, they prayed to set aside abatement by condoning delay with permission to add LR's of defendant no. 1 in the suit.

3. The proposed LR's of defendant no. 1 i.e. defendant no. 1(A) & (B) have duly served summons at Exh. 41 and submitting that, there is intentional delay on part of LR's of deceased plaintiff. It is submitted that, contention in the application are false. Hence, application is required to be rejected. Alternatively, prayed to impose heavy costs on plaintiffs', if the Court comes to conclusion to allow the application.

4. I have perused the record. Heard learned advocate of plaintiff.

5. In the present matter defendant no. 1 died on

15/02/2022. However, Judgment of Hon'ble Supreme Court Suo motu Writ Petition No. 03/2020 decided on 10th January, 2022, period limitation started in this matter since 01/03/2022. Thus, considering articles of Limitation Act, all the applications are not within limitation. Thus, considering limitation and period referred in the application with rights and interest of the property, it will be just and proper to allow all applications (Exh.35, 36 & 37) as cause of action survive. Considering delay cost of Rs.300/- is required to be imposed upon plaintiffs'. On payment of costs, plaintiffs' shall bring the LR's of deceased defendant no. 1 on record on or before next date. Costs Rs.300/- be paid to LR's of defendant no. 1 on or before next date. Thereafter, the plaintiffs' shall array the LR's of defendant no. 1.

Kagal
Date:- 21/01/2023

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