



COMMON ORDER BELOW EXH. NO. 14 IN
REG. CIVIL SUIT NO. 115/2018.

Shanta kakasaheb Patil Vs. Yalgonda Urf Annaso
Mhadgonda Patil

By way of this application, plaintiff prays for condonation of delay for bringing on record the legal representatives and setting aside abatement against deceased defendant No. 01. **Yelgonda @ Annasaheb Mhadgonda Patil.** Defendant No. 01. Yeglonda has died on 09/06/2021. However, his legal-heirs have not been brought on record within stipulated time. Hence, the present application is filed to condone the delay and to set aside the abatement against deceased defendant No. 01 as plaintiff was trying to take steps in the present matter and his movement was restricted due to the Lockdown imposed by pandemic Covid-19.

02. Say of the other side was called for. Defendants have stated that the present application is false and misleading and is liable to be rejected as the contents of the application is false. Notices should be first issued to the legal-representatives of the deceased defendant No. 01.

03. Perused the application and the say. Perused record of the case. Now, as per Article 120 of the Limitation Act, 1963, if any party to suit dies, then, period of 90 days is available for bringing on record legal representatives of the deceased party. Defendant No. 01 died on 09/06/2021. This application was presented on record on 27/11/2021. Thus, there has been some delay. As plaintiff has

failed to bring on record legal representatives of deceased defendant No. 01 within stipulated time, this suit is automatically abated against deceased defendant No. 01. Now, plaintiff should have filed application in setting aside abatement of deceased defendant No. 09 within 60 days of the abatement however, plaintiff has not done so. Now, the plaintiff has filed the present application under the provisions of Order XXII, Rule 4 (5) of the C.P.C. for condonation of delay in bringing on record legal representatives of defendant No. 01.

04. The present suit is instituted claiming the relief of partition and separate possession of shares and perpetual injunction. Allegations about the suit property bearing Gat No. 1246, 1252/1, 1252/2, 1252/3, 1253, 1254/2, 477, 490, 792 are involved. Parties are concerned with their proprietary rights. Hence, successors of deceased defendant No. 01 would have interest in further defending the suit. The reasons mentioned for the delay is about the pandemic of Covid-19 and lockdown, as well as efforts to secure the information about the legal-representative of the deceased defendant No. 01. The reasons are supported by the affidavit of the other plaintiff. They have also stated on oath the delay is not intentional. The delay has not caused prejudice to any other parties. The contention raised by defendants regarding the issuance of notice to the legal-representatives of deceased defendant No. 01 would unnecessarily prolong the matter as the reasons forwarded by the plaintiff are quite reasonable and acceptable. Thus, the delay is being condoned. Consequently, the abatement against deceased defendant No. 1 is also set aside. Hence, the present application is

allowed in following terms.

ORDER

1.	Application is allowed.
2.	Delay in setting aside abatement and in bringing on record legal-heirs of deceased defendant No. 01. Yelgonda @ Annasaheb Mhadgonda Patil is hereby condoned.
3.	The abatement against defendant No. 01. Yelgonda @ Annasaheb Mhadgonda Patil is hereby set aside.
4.	There shall be no order as to costs.

Date :- 27/01/2022

Place :- Kagal.

(Katkar Vijaya N.S.)

Jt. Civil Judge, Junior Division, Kagal.