



**ORDER BELOW EXH. NO. 194 IN REG. CIVIL
SUIT NO. 67/2008**

**Sou. Shalabai Dashrath Lohar Vs. Shri Janaba Tukaram
Sutar.**

By way of this application, plaintiff No. 2 and 3 press for condonation of delay of 17 months and 15 days for bringing on record the legal representatives of deceased plaintiff No. 1. **Shalabai Dashrath Lohar**. Plaintiff No. 1. Shalabai has died on 23/09/2019. However, her legal-heirs have not been brought on record within stipulated time. Hence, the present application is filed to condone delay of 17 months and 15 days as plaintiffs were trying to take steps in the present matter.

02. Say of the other side was called for. However, no say has been filed till today. Hence, the application is proceeded without say of the defendants.

03. Perused the application and the say. Perused record of the case. Now, as per Article 120 of the Limitation Act, 1963, if the party to suit dies, then, period of 90 days is available for bringing on record legal representatives of the deceased party. However, plaintiff No. 1 died on 23/09/2019. This application was presented on record on 08/03/2021. Thus, there has been some delay. As plaintiff No. 2 and 3 failed to bring on record legal representatives of deceased plaintiff No. 1 within stipulated time, this suit is automatically abated against deceased plaintiff No. 1. Now, plaintiff should have filed application in setting aside abatement of deceased

plaintiff No. 1 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 3 and 9(2) of the C.P.C. for condonation of delay of 17 months and 15 days in bringing on record legal representatives of plaintiff No. 1.

04. The present suit is instituted claiming the relief of partition, separate possession of shares and declaration. Immovable properties are involved in the present suit. Parties have concerned with their proprietary rights. Hence, successors of deceased plaintiff No. 1 would have interest in further conducting 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 plaintiff No. 1. The reasons are supported by the affidavit of the other plaintiffs. They have also stated on oath the delay is not intentional. The delay has not prejudiced to any other parties. 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 plaintiff No. 1. Shalabai Dashrath Lohar is hereby condoned.
3.	There shall be no order as to costs.

Date :- 10/01/2022

Place :- Kagal.

(Katkar Vijaya N.S.)

Jt. Civil Judge, Junior Division, Kagal.