



Satish Lohar Vs. Bhimrao Lohar etc.

CNR - MHKO130010192019

**COMMON ORDER BELOW EXH. 38, 39 & 40 IN**  
**R.C.S.No. 144/2019**

1. These applications are filed by plaintiff for setting aside abatement, to condone the delay and for taking LR's of defendant no. 1 on record.
2. According to the plaintiff, defendant no. 1 died on 29/11/2019. Death certificate of defendant no. 1 is filed on record at Exh.50. According to the learned advocate for the plaintiff, the cause of action survive. It is argued that, plaintiff has no knowledge of law. Further, he could not approach before his advocate within time to set aside the abatement and to add the LR's of defendant no. 1. Therefore, the delay is caused due to unavoidable reasons. Hence, 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 i.e. defendant no.1(A) & 1(B) are duly served respectively at Exh.52, & 54 and till passing of this order did not appeared on call. The matter is old one. Further, cause of action is survive in this matter and proposed LR's of defendant no. 1 are necessary parties to the suit. Moreover, both the LR's failed to contest the application. Hence, this application being uncontested, this court proceeded further.
4. I have perused the record. Heard learned advocate of plaintiff.

5. Admittedly, the defendant no. 1 died in the year-2019. In the present matter the reasons are justified. Moreover, delay is not huge. Till 28/02/2022 Hon'ble Supreme Court extended the period of limitation vide Suo motu Writ Petition No.03/2020 decided on 10<sup>th</sup> January, 2022. Further, this application is moved on 19/03/2021. Considering ratio of above Judgment, as well as period of limitation stated under article 120 and 121 of Limitation Act, the applications are as per provisions of law. Further, delay is required to be granted generally and liberally. For proof of reasons mentioned in the application, the plaintiff has filed death certificate. According to plaintiff, cause of action survive. Therefore, considering, nature of suit, delay caused to move this applications, coupled with reasons mentioned in the application, it will be just and proper to allow all applications without imposing any costs. Plaintiff shall bring the LR's of deceased defendant no.1 on record on or before next date. No order as to costs.

Kagal  
Date:- 15/02/2023

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