



Devaba Patil Vs. Sonabai Khurdal (Patil) etc.

CNR – MHKO130010682015

COMMON ORDER BELOW EXH. 53, 54 & 55
IN R.C.S.No. 02/2016

1. These applications are filed by plaintiff for setting aside abatement, to condone the delay and for taking LR's of defendant no. 2 on record.

2. According to the plaintiff, defendant no. 2 died on 10/09/2023. Death certificate of defendant no. 2 is filed on record at Exh.57. According to the learned advocate for the plaintiff, the cause of action survive. It is argued that, plaintiff have 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. 2. 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. 2 in the suit.

3. LR's of defendant no. 2 i.e. defendant no. 2(a) has submitted his say overleaf of this application and submitted that, there is intentional delay on part of plaintiff. Further, the wrong delay is calculated by the plaintiff. Hence, urged to reject the application.

4. I have perused the record. Heard learned advocate of both parties.

5. Admittedly, the defendant no. 2 died on 10/09/2023. Thus, reasons stated in the application are well founded.

Moreover, cause of action survive in this matter except the fact of knowledge of death other justifiable defence has not been taken by LR's of deceased defendant no. 2. Therefore, considering, nature of suit, delay caused to move this application, provisions of Limitation Act, age of plaintiff, coupled with reasons mentioned in the application, it will be just and proper to allow all the applications in the interest of justice. The plaintiff shall bring the LR's of deceased defendant no. 2 on record on or before next date. The plaintiff shall carry necessary corrections in the plaint and to proceed with the suit expeditiously.

Kagal

Date:- 30/09/2024.

(B.D.Gore)

Civil Judge Junior Division,
Kagal.