



Sadashiv Swami Vs. Mallesh Swami

CNR - MHKO130011492016

COMMON ORDER BELOW EXH. 33, 34 & 35 IN
F.D.No. 02/2017

1. These applications are filed by LR's of deceased applicant for setting aside abatement, to condone the delay and for taking LR's on record.

2. According to the LR's of deceased applicant, applicant Sadashiv Gurupad Swami died on 19/01/2022. Further, wife of applicant Shantabai Sadashiv Swami is already died on 22/08/1998. The death certificates are filed on record. According to the learned advocate for the LR's of deceased applicant, the cause of action survive. Moreover, LR's of deceased applicant has no knowledge of law. Therefore, he could not approach before his advocate within time to set aside the abatement and to add the LR's of applicant. Hence, he prayed to set aside abatement by condoning delay with permission to add LR's of applicant in the matter.

3. Contrary, the opponents have filed their say below same application and submitted that, the matter is old one. Further, cause of action is survived in this matter and applicant has deliberately caused delay for filing present application within prescribed period. Entire contention in the application is false. Hence, prayed to reject the application.

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

5. Admittedly, the applicant died on 19/01/2022. In the present matter the reasons are justified. For proof of reasons mentioned in the application, the LR's of applicant has filed death certificates. According to LR's of applicant, cause of action survive. Therefore, considering, nature of matter, delay caused to move this application, age of applicant, coupled with reasons mentioned in the application, it will be just and proper to allow all application with imposing costs upon rest of the LR's of applicant. Considering, delay costs of Rs.500/- is imposed upon the LR's of applicant. On depositing payment of costs in the court, the LR's are permitted to contest the application. If the costs of Rs.500/- deposited by the LR's of applicants, the same shall be paid to opponents. Upon compliance of above order the LR's of applicant shall carry necessary corrections in the matter and to proceed with the matter expeditiously.

Kagal
Date:- 13/04/2023

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