


MHKO140001632008 	<b><u>ORDER BELOW EXH.90 IN R.C.S. NO.40/2008</u></b> <b><u>Ganapati Mahadeo Shirodkar</u></b> <b><u>Vs.</u></b> <b><u>Manohar Dattatrya Pokale</u></b>
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This is a suit for declaration and permanent injunction. By this application filed at Exh.90, plaintiffs prayed to setting aside deemed abatement order supposedly passed on account of death of defendant No.1. In the application it is contended that, defendant No.1 died on 13/05/2024. Plaintiff could not able to get death certificate of defendant No.1. Plaintiffs were residing at outside the village for their business. Therefore, the plaintiffs could not meet their lawyers within stipulated time and provide the information. According to plaintiffs, the delay caused is not deliberate. Considering nature of the suit cause of action survives. If delay is not condoned and abatement is not set aside will cause greater hardship to the L.Rs. of defendant No.1. Thus, prayed accordingly. The application is supported with affidavit of plaintiff No.2(3).

2. The application is strongly opposed by the defendant by filing their say at Exh.90 and submitted that, contention of the application is not true. Considering the nature of the suit appropriate order may be passed.

3. Heard, the ld. Advocate for the plaintiff and the ld. Advocate for the defendants.

4. It is a matter of record that, defendant No.1 died on 13/05/2024 as per the death certificate and the plaintiff were required to bring the L.Rs. of deceased defendant No.1 on record within 90 days from the date of death of defendant No.1. However, nothing is done by the plaintiff within the said time limit to bring L.Rs. of defendant No.1 on record. This application is filed on 31/08/2024. There is a delay of 21 days.

The reasons mentioned in the application regarding delay though not appear to be probable. However, in the interest of justice and to decide the matter on merit the same is required to be condoned. Loss caused to the defendants because of delay in bringing L.Rs. of defendant no.1 on record can be compensated by granting costs to the defendants. Hence, following order.

**ORDER**

The application below Exh.90 is allowed subject to costs of Rs. 500/- to be paid to the defendants in common.

On payment of the said amount of costs, delay caused in filing of application seeking setting aside of abatement order presumedly came into effect on account of death of defendant no.1 shall stand condoned.

On payment of the said amount of costs, deemed abatement order presumedly came into effect on account of death of defendant no.1 shall stand set aside.

Parties to note.

Date : 09/09/2025.

(V.S. Agarwal)  
Civil Judge Jr.Dn., Chandgad.