

Order below Exh. 44 in Regular Civil Suit No.29/2007.

This is an application moved by the plaintiffs for setting aside abatement against defendant No.1.

2) Heard advocate for the plaintiffs.

3) Perusal of application revealed that defendant No.1 died on 08/12/2010. The defendant No.1 left behind two sons and a daughter as his legal representatives. In order to avoid the legal and technical complications interse between both the parties, it is necessary to bring the legal heirs of defendant No.1 on record as they are proper and interested partie. Hence, this application.

4) The application proceeded without say of proposed L.Rs. on merit.

5) The plaintiffs have filed the suit for the relief of declaration and consequential relief of perpetual injunction. Therefore, right to sue survive against the legal representatives of defendant No.1 Therefore, in my considered view, though the delay caused for setting aside the abatement is not satisfactorily explained by the plaintiffs. Still, considering the principles of natural justice i.e. no man should be condemned unheard, application deserves to be allowed by imposing costs. Hence I pass following order.

O r d e r

1) Application is allowed subject to depositing costs of Rs.800/- (Rupees Eight hundred only) in the Court on or before next date.

2) On depositing costs of Rs.800/- Assistant Superintendent is directed to credit the said costs to the Government.

3) After compliance of clause No.1, Plaintiffs are directed to carry out the necessary amendment in the Plaint and file copy of amended plaint on or before next date.

4) Plaintiffs are further directed to supply copies of amended plaint for service of summons against legal representatives of defendant No.1.

5) Failure to comply the order on or before next date, application shall be deemed to be rejected.

Sd/-

Dated:- 11/08/2016.

(M. D. Thombare)
Civil Judge, Jr. Dn., Chandgad.

Order below Exh.45 in Regular Civil Suit No. 29/2007.

This is an application moved by the plaintiffs for condonation of delay caused to bring on record legal representatives of defendant No.1.

2) Heard advocate for the plaintiffs.

3) Perusal of application revealed that defendant No.1 died on 08/12/2010. The defendant No.1 left behind two sons and a daughter as his legal representatives. In order to avoid the legal and technical complications interse between both the parties, it is necessary to bring the legal heirs of defendant No.1 on record as they are proper and interested parties. Hence, this application. Therefore, delay is caused to bring on record legal representatives of defendant No.1. Hence, the application.

3) The plaintiffs have filed the suit for the relief of declaration and consequential relief of perpetual injunction. Therefore, right to sue survive against the legal representatives of defendant No.1. Therefore, in my considered view, though the delay caused for setting aside the abatement is not satisfactorily explained by the plaintiffs. Still, considering the principles of natural justice i.e. no man should be condemned unheard, application deserves to be allowed by imposing costs. Hence I pass following order.

Order

1) Application is allowed subject to depositing costs of Rs.800/- (Rupees Eight hundred only) in the Court on or before next date.

2) On depositing costs of Rs.800/- Assistant Superintendent is directed to credit the said costs to the Government.

3) Failure to comply the order on or before next date, the application deemed to be rejected.

Dated:- 11/08/2016.

Sd/-
(M. D. Thombare)
Civil Judge, Jr. Dn., Chandgad.

Order below Exh.46 in Regular Civil Suit No. 29/2007.

This is an application for permission to bring on record the legal representatives of defendant No.1.

2) Heard advocate for the plaintiffs.

3) Perusal of application revealed that defendant No.1 died on 08/12/2010. The defendant No.1 left behind two sons and a daughter as his legal representatives. In order to avoid the legal and technical complications interse between both the parties, it is necessary to bring the legal heirs of defendant No.1 on record as they are proper and interested parties. Therefore, delay is caused to file the application. Hence, the application.

5) The plaintiffs have filed the suit for the relief of declaration and consequential relief of perpetual injunction. Except proposed defendant No. 1(A) to 1(C), there are no other legal representative to the defendant No.1. As right to sue survives against the legal representatives of defendant No.1. Therefore, they have interest in the suit. Hence, the application deserves to be allowed. Hence, I proceed to pass the following order.

O r d e r

- 1) The application is allowed.
- 2) The plaintiffs are permitted to bring on record the legal representatives of defendant No.1 i.e. defendant No.1(A) to 1(C).
- 3) The plaintiffs are directed to carry out necessary amendment in the Plaint on or before next date.

Dated:- 11/08/2016.

Sd/-
(M. D. Thombare)
Civil Judge, Jr. Dn., Chandgad.

C E R T I F I C A T E

I affirm that the contents of this P. D. F. file Judgment/Orders are same, word to word, as per the original Judgment/Orders.

Name of the Stenographer	Shri. V. L. Tatkod, L. G. Stenographer.
Name of Court	Shri. M.D. Thombare, Civil Judge, Junior Division and Judicial Magistrate, First Class, Chandgad.
Date of Dictation	11/08/16
Judgment/Orders signed by the P. O. on	11/08/16
Judgment/Orders uploaded on	11/08/16