


MHKO140003422016	<u>ORDER BELOW EXH. 39 IN R.C.S. NO. 84/2016</u>
	Dattu Chandru Gawade Vs. Ravaji Gawade

This is a suit for partition, separate possession and permanent injunction. By this application filed at Exh.39, plaintiffs have prayed to condone delay caused in filing the application seeking setting aside of deemed abatement order supposedly passed on account of death of defendant No.20 namely, Shri. Jotiba Sattu Gawade. In the application it is contended that, defendant No.20 died on 12/04/2017. Due to illness plaintiff could not file application in this matter to bring L.Rs. of deceased defendant No.20 in the proceedings as, within stipulated time. According to applicants, the delay caused is not deliberate. According to them, considering nature of the suit permission is required to be given to the plaintiffs to add L.Rs. of deceased defendant No.20 on record, otherwise, they will suffer a heavy and irreparable loss. Thus, prayed accordingly. The application is supported with affidavit of plaintiff no.2.

2. The application is strongly objected and contested by the defendants by filing thier say behind the application. Defendants contended that, the delay is eight years so heavy cost be imposed on them and application be allowed.

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

4. It is a matter of record that, defendant No.20 died on 12/04/2017 and the plaintiffs were required to bring L.Rs. of deceased plaintiff on record within 90 days from the date of death of defendant No.20

which comes to 13/07/2017. That, even thereafter also, within the period of 60 days, the plaintiffs could have brought L.Rs. of deceased defendant No.20 on record by applying for setting aside of deemed abatement order. However, nothing is done by the plaintiffs within the said time limit. However, whatever delay is caused if not condoned, plaintiff will suffer irreparable loss. As such, I found the delay is required to be condoned. Hence, following order. Hence, following order.

ORDER

The application below Exh.39 is allowed subject to cost of Rs.1,500/-. Cost be paid to the defendant in common.

Delay caused in filing the application for setting aside the deemed abatement order supposedly passed on account of death of deceased defendant No. 20 is hereby condoned.

Parties to note.

Date : 01/10/2025

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