


MHKO140003882010 	<u>ORDER PASSED BELOW EXH. 60 IN</u> <u>RCS NO. 125/2010</u> Ranaba Dattu Patil. Vs. Dattu Kallapa Patil and Ors.
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Present application is made by plaintiff to set aside the abatement against the Defendant No.01 on record.

2. It is contended by the plaintiff that, present suit is for Declaration and perpetual injunction. Defendant No. 1 on record is died on 14.05.2020- Due to the pandemic of covid-19 the plaintiff failed to bring Legal representative of deceased defendant No.01 on record within time permitted by law. Learned Advocate for plaintiff argued that, the plaintiff have not intentionally caused delay. Cause of action survive against the legal representative of defendant no.1. Hence, prayed to set aside the abatement against defendant No.01 on record.

3. On the other side, other defendants have filed their say on application itself and strongly objected the application and contented that, the application is not made within the prescribed period. Both parties are residing in the same village. It is unbelievable that plaintiff could not know about the death of defendant no.1. Therefore, prayed to reject the application.

4. Perused the application and say. The present suit is instituted for Declaration and perpetual injunction. On perusal of death certificate of defendant no.1 wide list Exh. 59 it appears that defendant no. 1 died on 14.05.2020. The cause of action survive against the legal

representative of defendant no.1. The delay for setting aside the abatement is set aside vide order below Exh.56. Considering the reason, to avoid multiplicity of the proceeding and to decide the matter on merit it is just and proper to set aside the abatement and bring legal representative of defendant No.01 on record. Therefore, I pass following the order -

ORDER

- 1] Application Exh. 60 is allowed.
- 2] The abatement against defendant No.01 on record is set aside.

Place: Chandgad
Date: 04.01.2022

Sd/-
(C.U. Shipkule)
Jt.Civil Judge Junior Division,
Chandgad.

