

MHKO160000602019 	<u>COMMON ORDER BELOW EXH.28, EXH.29 & EXH.30 IN R.C.S.NO.13/2019</u>
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1. Plaintiff has filed present applications for condonation of delay, setting aside abatement order and taking legal heirs on record. It is submitted by plaintiff that defendant No.7 Dinkar Shankar Mane was died on May 2025. Abatement order is passed against defendant No.7. However, there are surviving legal heirs of deceased defendant No.7. They needs to be added parties to the proceeding. There is delay of 30 days to take legal heirs on record of deceased defendant No.7. Plaintiff has no knowledge about death of defendant No.7. Thereafter, he filed an application before Grapanchayat Koparde for death certificate of deceased defendant No.7 on 26/06/2025. In the meantime, abatement order is passed against deceased defendant No.7. The delay is not intentional. Deceased defendant No.7 Dinkar Shankar Mane has legal heirs, i.e. (1) wife namely Akkabai Dinkar Mane, (2) daughter namely Vandana Suresh Kashid, (3) daughter namely Savita Dinkar Mane, (4) daughter namely Bharati Dinkar Mane, (5) son namely Sangram Dinkar Mane & (6) son namely Sagar Dinkar Mane, and, they are necessary parties to this suit to decide the suit on merit. Finally prayed for condonation of delay in taking legal heirs on record by setting aside abatement order passed against deceased defendant No.7.

2. Defendants filed say below the application and submitted that the application is filed with huge delay and prayed to reject the

application. Alternatively, defendants prayed to allow the application by imposing heavy cost.

3. Read the applications and say filed below it. It is seen that defendant No.7 Dinkar Shankar Mane has died on May 2025. There appear delay of 30 days to take legal heirs of deceased defendant No.7 on record. However, considering the nature of the suit, it can be seen that right to sue survives in the proposed legal heirs of deceased defendant No.7. The reasons mentioned for the delay are not satisfactory. Moreover, plaintiff has not filed any documentary proof about his pleading in the application. Hence, the delay needs to be compensated with appropriate cost. Defendants opposed the application but they neither challenged death of deceased defendant No.7 nor the status of his proposed legal heirs is in question. Deceased defendant No.7 Dinkar Shankar Mane has surviving legal heirs viz.(1) wife namely Akkabai Dinkar Mane, (2) daughter namely Vandana Suresh Kashid, (3) daughter namely Savita Dinkar Mane, (4) daughter namely Bharati Dinkar Mane, (5) son namely Sangram Dinkar Mane & (6) son namely Sagar Dinkar Mane, and, they are necessary parties to this suit. The legal heirs of deceased defendant No.7 are necessary party to the suit to decide the suit on merit. Though, the reasons for delay in taking legal heirs on record is not satisfactorily explained by the plaintiff; in order to avoid multiplicity of proceeding, it will be appropriate to allow the plaintiff to take legal heirs of deceased defendant No.7 on record. Therefore, no prejudice will caused to the defendants if these applications are allowed with appropriate cost. Accordingly, I pass following order;

ORDER

1. Applications at Exh.28, Exh.29 and Exh.30 are hereby allowed.
2. The abatement order passed against defendant No.7 is hereby set-aside and delay caused is hereby condoned subject to cost of Rs.1,000/- to be paid to defendants.
3. Legal-heirs of deceased defendant No.7 Dinkar Shankar Mane Shankar Mane viz. Akkabai Dinkar Mane, Vandana Suresh Kashid, Savita Dinkar Mane, Bharati Dinkar Mane, Sangram Dinkar Mane & Sagar Dinkar Mane are permitted to be brought on record.
4. Plaintiff shall carry out necessary amendment and file the amended copy till next date.
5. After compliance, issue suit summons to the newly added legal heirs of deceased defendant No.7.

Date:- 02/07/2026

Place:- Shahuwadi

(P. B. Pawar)
Civil Judge Junior Division,
Malkapur – Shahuwadi,
Dist. Kolhapur.