

MHKO160001862018



Common order below Exh. 52, 63 in

R.C.S.No. 26/2018

1) Present application is made by plaintiff for setting aside abatement and condonation of delay for taking legal representative of defendant no.6 on record. Defendant no. 6 died on 3/1/2022. Smt. Sharda Kisan Raut, Shri. Sadashiv Dadu Powar, Smt. Chhaya Shivaji Patil, Shri Sadashiv Dadu Powar, Smt. Tarabai Dadu Powar, Shri. Ananda Dadu Powar are the legal heirs of deceased defendant no. 6. There are no other legal heirs of the defendant no. 6. Hence present application made for taking the legal heirs of the defendant No. 6 on record.

2) It is further contended that the defendant no. 6 died on 3/1/2022 but the delay of 15 days was caused for taking the legal heirs on record. As per the law plaintiff has to file the application within 3 months from the death of deceased Dadu Balu Powar. The delay for filing the present application is not made deliberately but to decide the matter on merit it is necessary to amend the suit, and to take the legal representatives on record. Therefore, present application is made for the condoning the delay and for taking legal representative on record.

3) Defendant failed to file their say on present application. Hence no say order passed against the defendant. Heard the Ld. Advocate for the plaintiff. Perused the record. However, perusal of record, it reveals that the plaintiff filed present suit for the declaration and perpetual injunction. The cause of delay is supported by affidavit of plaintiff. As

per Art 120 of the Limitation Act prescribes Limitation of 90 days for bringing legal heirs and representatives of the deceased party. It is necessary to hear and decide the rights of legal heirs of defendant no.6.

4) In order to enable the Court to effectively and completely adjudicate upon and settle all the questions involved in the suit and to hear & decide present suit, it is necessary to allow the application to bring on record the legal representatives of the deceased defendant no. 6, but as per the law of limitation plaintiff has to file the application for taking on record legal representative within 90 days, but the delay of 15 days was caused for taking on record the legal heirs of defendant no. 6. On perusing record, it reveals that there are no other heirs of deceased defendant no. 6 except named in the application. Hence, It is desirable to allow plaintiff to bring legal heirs of deceased defendant no.6 on record. As such, I pass following order :

ORDER

1. The applications are hereby allowed.
2. The delay of 15 days is condoned.
3. No order as to cost.
4. Legal heirs of deceased defendant no. 6 be taken on record within 14 days from the date of order.

Date- 16/10/2024

(Shraddha Dinkar Bagal)

Place- Shahuwadi

Joint Civil Judge Junior Division

Malkapur Shahuwadi Dist. Kolhapur

