

MHKO160002502015



COMMON ORDER BELOW EXH. 42 & EXH.43

IN R.C.S.NO.48/2015

1. Plaintiffs filed these applications and stated that defendant No.39 Tukaram Sakhoba Patil has died on 20/07/2024. The delay of 2 months 20 days occurred to take his legal heir on record. Plaintiffs have submitted that learned advocate of defendants have not filed pursis about death of defendant No.39. The delay is not intentional. Plaintiffs have filed death certificate of defendant No.39 along with Exh.41. Deceased defendant No.39 Tukaram Sakhoba Patil has legal heirs, i.e. Laxmi Tukaram Patil (Wife) and she is the necessary party to this suit. They submitted that if the delay is not condoned then they will suffer irreparable loss and prayed to allow the application.

2. Defendants filed their say below the application and submitted that plaintiffs have not given any specific reason and explanation for the delay and prayed to reject the application. They also submitted that the application may be allowed by imposing maximum cost.

3. Read the applications and say filed below it. It is seen that defendant No.39 Tukaram Sakhoba Patil has died on 20/07/2024. There appear delay of 2 months 20 days for taking legal heirs on record. The reasons put forth for the said delay appears satisfactory. Deceased defendant No.39 Tukaram Sakhoba Patil has legal heirs,

i.e. Laxmi Tukaram Patil (Wife) and she is the necessary party to this suit. The status of proposed legal heir is nowhere challenged by defendants. The right to sue survives against the legal heirs of plaintiff. The legal heirs of deceased defendant No.39 is the necessary party to the suit to decide the suit on merit. The delay caused can be compensated by imposing cost on plaintiffs. No prejudice will be caused to the defendants if these applications are allowed. It is important to decide the suit on merit. Hence, following order -

ORDER

1. Application at Exh.42, Exh.43 are hereby allowed.
2. The abatement order passed against defendant No.39 is hereby set aside and delay caused is hereby condoned subject to cost of Rs.1,000/- to be paid to the other side.
2. Legal-heirs of defendant No.39 Tukaram Sakhoba Patil i.e. Laxmi Tukaram Patil (Wife) is permitted to be brought on record.
3. Plaintiffs shall carry out necessary amendment and file the amended copy till next date.

Date:- 08/11/2024

Place:- Shahuwadi

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