


MHKO160002502015 	<u>COMMON ORDER BELOW EXH. 62 & EXH.63</u> <u>IN R.C.S.NO.48/2015</u>
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1. Plaintiffs have filed these applications and state that defendant No.5 Namdev Tukaram Dhangal (Mudale) and defendant No.6 Anna Ganu Dhangar (Mudale) have died on 06/09/2021 and 11/11/2023 respectively. The delay of 4 years 3 months occurred to take legal heirs on record of deceased defendant No.5 and delay of 2 years 1 month occurred to take legal heirs on record of deceased defendant No.6. Plaintiffs further submitted that learned advocate of defendants has not filed pursis about death of deceased defendant Nos. 5 & 6, hence, he could not take their legal heirs on record in time. The delay is un-intentional. The deceased defendant No.5 has legal heir i.e. Shantabai Namdev Mudale-Dhangar. The deceased defendant No.6 has legal heirs i.e. Tanaji Anna Mudale-Dhangar & Sangeeta babaso Vagare. They are the necessary parties to this suit to decide the suit on merit. Hence, to avoid multiplicity of proceedings and to decide the suit on merit, plaintiffs prayed to allow these applications.

2. Defendants filed their say below the application and submitted that plaintiffs have not explained the delay caused, they have not given any satisfactory reason for the delay and prayed to reject the application by imposing maximum cost.

3. Read the applications and say, perused the record. It transpires that defendant No.5 Namdev Tukaram Dhangal (Mudale) has died on 06/09/2021 and defendant No.6 Anna Ganu Dhangar (Mudale) has died on 11/11/2023. Plaintiffs submitted that learned advocate of defendants has not filed pursis about death of deceased defendant Nos. 5 & 6. On the other hand, defendants have opposed the applications and prayed to reject the application on cost. But, defendants neither challenged the deaths of deceased defendants nor the status of their legal heirs is in question. The right to sue survives against the legal heirs of defendant No.5 and 6. The deceased defendant No.5 Namdev Tukaram Dhangal (Mudale) has legal heir i.e. Shantabai Namdev Mudale-Dhangar. The deceased defendant No.6 Anna Ganu Dhangar (Mudale) has legal heirs i.e. Tanaji Anna Mudale-Dhangar & Sangeeta babaso Vagare. They are the necessary parties to this suit to decide the suit on merit. Therefore, this court finds that a fair opportunity needs to be given to the plaintiffs. At the same time, delay needs to be compensated by imposing appropriate cost. All the disputes between both the parties needs to be resolved to decide the suit on merit. No prejudice would cause to defendants if these applications are allowed on cost. Therefore, all the applications are needs to be allowed on appropriate cost. Hence, following order.

ORDER

1. Applications at Exh.62 & Exh.63 are hereby allowed.
2. Abatement order against the defendant No.5 and defendant No.6 is hereby set-aside and delay caused to take their legal heir on record is hereby condoned subject to cost of Rs.4,000/- to be paid to defendants .

3. Legal-heirs of deceased defendant No.5 Namdev Tukaram Dhangal (Mudale) viz. Shantabai Namdev Mudale-Dhangar are permitted to be brought on record as defendant No.5(A).
4. Legal-heirs of deceased defendant No.6 Anna Ganu Dhangar (Mugale) viz. Tanaji Anna Mudale-Dhangar & Sangeeta babaso Vagare are permitted to be brought on record as defendant Nos.6(A) & 6(B).
5. The plaintiffs shall carry out necessary amendment and file the amended copy till next date.
6. After compliance, issue suit summons to newly added legal heirs of deceased defendant Nos.5(A), 6(A) & 6(B).

Date:- 20/04/2026

Place:- Shahuwadi

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