

**Regular Civil Suit No. 72/2015.**

(CNR No.MHKO170003352015)

Shri.Shankar Shripati Patil,

V/s.

Shri.Dattatrya Ganpati Patil.

**COMMON ORDER BELOW EXH.80,81 & 82**

These are applications filed by the plaintiff in counter claim for setting aside abatement, condonation of delay, and bringing the Lrs of deceased Plaintiff No.4 of counter claim i.e. Shamrao Gopal Patil on the record. According to the applicant Plaintiff No.4 of counter claim died on 28.10.2021.It is submitted that after knowledge of death of Shamrao Gopal Patil the applicant immediately filed this application. That the delay caused in filing of this application is neither intentional nor deliberate. It is further submitted that the legal representatives of deceased plaintiff No.4 required to be taken on record . They are the only legal heirs of deceased plaintiff No.4. It is further submitted that in the interest of justice, presence of Lrs of deceased Shamrao Gopal Patil is necessary. Therefore prayed to condone the delay occurred and to allow the applications.

2. The say of other side was called on all these applications. They have filed their say and resists the applications and prayed for rejection of the applications with costs .

3. Considered rival submissions made by both parties. Perused record. Heard learned counsel for both parties. According to the plaintiff in counter claim, the plaintiff No.4 of counter claim died

on 28.10.2021 and due to illiteracy they could not file these applications within limitation period of 90 days and therefore could not bring the LR's of deceased Plaintiff No.4 in counter claim within limitation. The suit is filed for partition. Thus in order to enable the court to effectively and completely adjudicate upon all the questions involved, it is necessary to allow the applications. However inconvenience caused to the other defendants can not be ignored but can be compensated by imposing costs. In result following order is passed.

**Order**

1. The applications Exh. 80,81,and 82 are hereby allowed subject to costs of Rs.200/- to be paid to Original plaintiff by the applicants.
2. The abatement is hereby set aside.
3. The delay in filing of application is hereby condoned.
4. The necessary amendment be carried out by the applicant within fourteen days from today.

Date 03.11.2022.

Atul A.Kore,  
Jt.Civil Judge, Jr.Dn., Panhala.



