



ORDER BELOW EXH.30 IN R.C.S. Nos.192/2018  
(Namdev Kamble and Anr. v. Sanjay Kamble and Ors.)

Plaintiffs have filed present application for setting aside abatement order passed against plaintiff Nos.2.

02. Defendant Nos.1 to 4 have strongly resisted present application by filing their say vide Exh.33.

03. Heard learned advocates for both parties, at length. Arguments are set forth in consonance of their pleadings.

04. On perusal of record and proceeding, it appears that, plaintiff Nos.2 has died on 14.05.2023. Plaintiffs should have brought on record legal heirs of deceased plaintiff Nos.2 within stipulated period of time. However, plaintiffs failed to do so. Hence, the suit came to be abated against plaintiff Nos.2 as per law. Thereafter, plaintiffs have filed present application on 22.01.2024. Considering reasons mentioned in the application and submissions of learned advocate for plaintiffs, it shows that, due to unavoidable circumstances plaintiffs could not bring on record legal heirs of deceased plaintiff Nos.2 within period of limitation. There is nothing on record which indicate that, delay caused by plaintiffs in bringing on record legal heirs of plaintiff Nos.2 is deliberate. Hence, in view of contentions and submissions of both parties as well as considering the nature of the suit and controversy between both parties, I am of the considered opinion that, there was a sufficient cause for plaintiffs for not taking steps for bringing on record legal heirs of deceased plaintiff Nos.2 within period of limitation. Apart from this, the suit has to be decided on merit and for that purpose, it is necessary to bring on record legal heirs of deceased plaintiff Nos.2. Furthermore, by allowing present application, no prejudice will be caused to defendants. Therefore, considering above facts and circumstances, it is just and proper to

allow present application subject to cost. Considering age of the suit and delay caused by plaintiffs, it is just and proper to impose cost of Rs.700/- on plaintiffs while allowing present application. Resultantly, I pass following order :-

**:: ORDER ::**

1. Application (Exh.30) is hereby allowed subject to costs of Rs.700/- (Rupees Seven Hundred Only) payable to defendant Nos.1 to 4.
2. Abatement order passed against deceased plaintiff Nos.2 is hereby set aside.
3. Payment of cost shall be condition precedent for setting aside abatement order passed against plaintiff Nos.2.

(Dictated and pronounced in the Open Court).

Date: 23.12.2024.

( Balasaheb S. Gaikwad )  
Civil Judge, Junior Division,  
Kurundwad.