

MHKO180007592017



R.C.S.No.268/2017

Mahaveer Benechetke Vs

Chougonda Patil & ors.

CNR NO.MHKO180007592017

ORDER BELOW EXH.18
(Dated 24th November, 2023)

1] The application is filed for setting aside abatement order. It is contended that, defendant no.2 Devgonda Shivgonda Patil died on 13.04.2019 but his legal heirs are not brought on record within time. The plaintiff not get information about the death of defendant no.2. The defendants have also not filed pursis about death of defendant no.2. Therefore, his legal heirs could not be brought on record. There is near about 1375 days delay for bringing legal heirs of deceased defendant no.2 on record. Hence, requested to grant this application.

2] Proposed legal heirs filed their say and strongly opposed this application on the ground that the reason mentioned in the application is not satisfactory. Hence requested to reject this application with heavy cost of Rs.5000/-.

3] Heard both sides, perused record and proceeding. It shows that, copy of death certificate of the deceased defendant no.2 namely Devgonda Shivgonda Patil is filed on record vide list Exh.16 which shows that, he is died on 13/04/2019. The present application is filed on 16/06/2023. As per contention of the plaintiff he could not get information about the death of deceased defendant no.2. As well as the defendants have also not filed pursis

about the death of defendant no.2. It shows that the reason mentioned in the application is not satisfactory. However, considering the nature of suit which is filed for declaration and recovery of possession in respect of immovable property. I think it would be just and proper to set-aside automatic abatement. Hence, I proceed to pass following order.

ORDER

- 1] The application is allowed.
- 2] The abatement to the extent of deceased defendant no.2 is hereby set-aside.

Kurundwad.
Date : 24/11/2023.

Sd/-
(S. S. Ingle)
Civil Judge J.D., Kurundwad.