



ORDER BELOW EXH. 89

1) By virtue of this application, applicant being legal representatives of deceased plaintiff prayed to condone the delay of 23 days in substituting them in place of deceased plaintiff Mohammad Ibrahim Raut. Application is supported by affidavit.

2) According to the applicant, plaintiff expired on 02/07/2020. However, due to Covid-19 pandemic and its lock down, delay has been caused to take necessary steps in the present case. According to applicant, the delay caused to substitute their names in place of deceased plaintiff is not intentional. Present suit is for permanent injunction and declaration. Therefore, the proposed applicant being the legal representatives of deceased plaintiff are the necessary parties in the present suit. If the proposed applicants are substituted in place of deceased plaintiff, present suit will be decided on merits and there will be no multiplicity of litigation. The advocate for the defendant reiterated contents of application at the time of argument. On the above grounds, plaintiff prayed to condone the said delay.

3) Defendants failed to file say. Therefore, present application is proceeded without say of defendants.

4) Perused the application. Heard advocate for the applicant. Perused the record and proceeding. Applicants are seeking liberty to bring legal representative of deceased plaintiff on record. Applicants have contended that, the delay caused is not intentional. The application is supported by an affidavit. Present Suit is filed for declaration and injunction. Present suit involves valuable property rights and hence the application deserves to be liberally construed. Considering the nature of the suit, I am of the view that, proposed legal representatives are the necessary party in the present suit. If proposed legal representatives are substituted in place of deceased plaintiff, it will assist the court to decide the present suit completely, effectively and on merits. On the contrary if the proposed legal representatives are not substituted, there will be multiplicity of litigation. Thus considering the

above reasons, I am of the opinion that application deserves to be allowed.

ORDER

- 1) Application is allowed
- 2) Delay is condoned.
- 3) Application is disposed of accordingly.

Radhanagari.
Date: 12/11/2021

(S. K. Shaikh)
Civil Judge Junior Division,
Radhanagari.