

COMMON ORDER BELOW EXHS. 84, 86 and 88

(Passed on 12.02.2026)

1. Application (Exh.84) is filed by the plaintiff for delay condonation, application (Exh.86) is for bringing LRs of deceased defendant No.1 on record and application (Exh.88) is filed for setting aside abatement order.

2. The sum and substance of the above applications is that the defendant No.1 is passed away on 28.02.2024 at village Shirol (Janapur), Tal. Udgir, Dist. Latur. The plaintiff has moved the instant applications on 04.02.2026. It is submitted that the plaintiff being an illiterate person and since residing at Pune with his son, having no knowledge of the demise of defendant No.1, and therefore a delay of 23 months caused. According to him, the said delay is caused due to inadvertence and nothing intentional or deliberate. According to the him, the suit is in respect of the immovable property and valuable rights of the parties have been involved therein, and therefore by condoning delay alongwith setting aside abatement, LRs of deceased defendant No.1 i.e. Ratnakar Tukaram Chinchole, Ujjwala Pandurang Sontakke and Rekha Kishan Sontakke needs to be taken on record. Hence, these applications for the reliefs sought for.

3. The defendant has filed their say overleaf the application and contested these applications making a point that these applications are beyond limitations. Ultimately, they have prayed for passing appropriate order by imposing hefty costs.

4. Perused the applications (Exh. 86, 86 and 88) with the record. Heard rival arguments, for some time. Perusal of applications along with death certificate on record it appears that on 28.02.2024 the defendant No.1 has left for heavenly abode and the instant applications are moved on 04.02.2026, i.e. after almost 2 years. According to the applicant, due to his stay at Pune and he being illiterate fellow coupled with lack of legal knowledge he couldn't move these applications within stipulated period, and therefore the instant delay came to be caused. Though he has put forth this reason, still I hold that the reason put forth by the applicant for the delay does not seem to be plausible. However, the applications are supported by affidavits stating therein the said reason. Though the reason does not seem to be plausible, still in order to enable the Court to effectively and completely adjudicate

upon and settle all the questions involved in the suit, it is necessary to allow the applications. Further, Ratnakar Tukaram Chinchole, Ujjwala Pandurang Sontakke and Rekha Kishan Sontakke are the only LRs of deceased defendant No.1. Thus, I hold that the above mentioned are the LR's of deceased defendant No.1. They are the widow, daughter and daughter respectively of the deceased defendant No.1. It is obvious that the right to sue survives in them. Thus, they needs to be brought on record by condoning delay and setting aside the order of abatement as well. However, considering the delay caused to move these applications and as the trial resulted in protraction, some costs needs to be imposed upon the applicant while allowing these applications. With theses considerations, the applications needs to be allowed. In result, following order is passed :

ORDER

- 1) The applications (Exh.84, 86 and 88) are allowed subject to costs of Rs.1,000/- to be paid to the contesting defendant on or before next date.
- 2) The plaintiff to carry out necessary amendment incorporating the above LR's of deceased defendant No.1 by encircling the name of the defendant No.1, and file amended plaint on record on or before next date.
- 3) Issue summons to the newly added LR's of the defendant No.1 in the prescribed proforma.
- 4) Since the matter is oldest one, it is hereby expedited.
- 5) Parties and learned advocates to co-operate the Court to finally dispose off the matter within one month next.

Date : 12.02.2026

(Bhalchandra R. Zende)
3rd Jt. Civil Judge (J.D.),
Udgir.