



Reg. Civil Suit No. 316/2016
(Manohar Vs. Bapurao & Anr.)

ORDER BELOW EXHS. 36
(Passed on 07.03.2025)

1. This is an application filed by the plaintiff and thereby sought for bringing LRs of deceased defendant No.2 viz. Trimbak Vishwanath Honrao on record.
2. By way of this application the case put forth by the applicant in brief is that due to Corona Pandemic defendant No.2 has died on 17.02.2020. Therefore, his LRs i.e. widow viz. Shantabai Trimbak Honrao, two sons i.e. Sunil Trimbak Honrao and Sangmeshwar Trimbak Honrao and daughter viz. Deepa Pralhad Biradar, being the only surviving heirs, needs to be taken on record. According to him, the suit is for partition and therefore incorporation of the above LRs of deceased defendant No.2 are necessary for complete adjudication of the instant matter. Hence this application.
3. The learned advocate for the defendants has filed his say overleaf the application and thereby submitted that the instant application is moved after a substantial delay and therefore in absence of application for delay condonation, this application needs to be rejected. Hence, prayed for rejection of the application.
4. Heard both sides at considerable length. Perusal of application and say along with record it prima facie appears that on 17.02.2020 defendant No.2 has left for heavenly abode and the instant application is moved on 26.02.2021, i.e. after almost 1 year. However, the plaintiff has taken no pains to even move an application seeking delay condonation and setting aside abatement as well. Further, they did not put a single reason for

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such delay. However, the application is supported by affidavit. It is submitted that the names mentioned in the application are the only LRs of the deceased. Though the reason does not seem to be so 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 and by condoning delay and setting aside abatement, the LRs of deceased defendant No.2 needs to be taken on record. However, considering the delay caused to move this application and as the trial resulted in protraction vis-a-vis non filing of applications for delay condonation and setting aside abatement, some costs needs to be imposed upon the plaintiff while allowing this application. With theses considerations, the applications needs to be allowed. In result, following order is passed :

ORDER

- 1) The application (Exh.36) is allowed subject to costs of Rs.700/- to be paid to the defendants on or before next date.
- 2) The plaintiff to carry out necessary amendment and file amended plaint on or before next date.
- 3) Parties to take note.

Date : 07.03.2025

(Bhalchandra R. Zende)
4th Jt. Civil Judge (J.D.),
Udgir.