

MHLA110005322019



**Order below Exh.26 in RCS No.409/2019**

By this application applicants have requested for condoning the delay of 2 Years 3 Months and 14 days caused by them for bringing themselves as legal heirs of original plaintiff on record and granting them permission for bringing themselves on record, on the grounds stated in the application. Defendant Nos.9 and 10 have raised strong objections. Perused application and say. Heard both the sides.

2. Record shows that original plaintiff through his POA holder, who is his son, has filed this suit for perpetual injunction. Defendant Nos.9 and 10 have filed their WS at **Exh.23**. The suit is proceeding ex-parte against defendant No.12. The suit came to be dismissed against rest of the defendants under Order IX Rule 5 CPC on 14/06/2022. From the contents of application it appears that original plaintiff died on 10/08/2020. The photo-copy of his death certificate is filed by applicants at list below Exh.29/1. It is pertinent to note that POA holder of plaintiff is his son and despite this, he failed to move the application within period of limitation. This application is filed by applicants on 20/09/2024 i.e. approximately there is a delay of more than two and half years, even after deducting the period of two years of Covid-19 pandemic. Be that as it may. This delay can be condoned by imposing cost upon applicants. Considering the nature of suit, reliefs claimed, in my opinion, it is desirable that applicants, being legal heirs of original plaintiff, be permitted to array as plaintiffs. However, while doing so, the delay of more than two and half years caused cannot be overlooked and it is necessary to impose cost of Rs.2500/- upon them. Hence, I pass following order:-

**ORDER**

1. Application is allowed.
2. The delay caused by applicants is hereby condoned subject to cost of Rs.2500/- to be payable by them to defendant Nos.9 and 10 on next date or on any other date as extended by the Court.
3. After payment of cost amount and its

acknowledgment by defendant Nos.9 and 10, applicants shall carry out necessary amendment in title clause of the plaint.

4. Once the applicants get arrayed themselves as plaintiffs, they shall provide copy of amended plaint to the Court and for the contesting defendants at the earliest.

Date : 01/03/2025

(Ashish B. Marlecha)  
Civil Judge (Sr.Dn.),  
Nilanga, Dist. Latur.