

MHLA110010362018



COMMON ORDER BELOW EXH.77, 79 & 81
IN REGULAR CIVIL SUIT NO.144/2017
LUBJABAI VS. KONDIBA & ORS.

1. Perused the applications and say filed thereon. Heard Ld. Counsel for both sides.
2. Ld. Counsel for the counter-plaintiff submitted that counter-defendant No.2 Waman Shankar Dudhbhate is died on 29/04/2021. However, They could not get the detail information regarding legal heirs of deceased counter-defendant No.2 in time, they failed to bring the legal representatives of deceased counter-defendant No.2 Waman Shankar Dudhbhate on record within limitation. As they could not file the present applications within the prescribed period of limitation, they prayed to set-aside the abatement and to condone the delay for bringing the legal heirs on record.
3. Defendants resisted the applications and prayed to reject the applications on costs.
4. Plaintiffs have filed this suit for partition and separate possession. Therefore, it is clear that, right to sue survives to the legal representatives of deceased counter-defendant No.2 Waman Shankar Dudhbhate. The applications are supported with affidavit of counter-plaintiff, therefore, considering the reasons mentioned in the applications, it will be just and proper to condone the delay for bringing the legal heirs of deceased counter-defendant No.2 Waman Shankar Dudhbhate on record and to set aside the abatement. Hence, I proceed to pass the following order:-

ORDER

- 1) Application Exhibit Exhs.77, 79 & 81 are allowed subject to cost of Rs.3,000/- (Rupees Three Thousand only).
- 2) Delay in bringing L.Rs. of deceased counter-

defendant No.2 Waman Shankar Dudhbhate on record is hereby condoned.

- 3) L.Rs. of deceased counter-defendant No.2 Waman Shankar Dudhbhate be brought on record till next date, without fail.

Dt.:- 04/11/2025

Jt. Civil Judge Sr. Dn., Nilanga.