



Common Order below Ex. 287,289 & 291.
MHLA150002692008

1] Present applications filed by the counter claimant no.3 for setting aside abatement order, con-donation of delay and bringing the LR's of deceased defendant no.2 Kashinath Sahmrao Munjane in counter claim on record. It is contented that during pendency of suit defendant no.2 Kashinath s/o. Shamrao Munjane in counter claim died as per bailiff report exh. 279 Dt.31.01.2022. But counter claimant could not bring the LR's., within stipulated period due to counter claim illness and he could not get the name and address of legal heirs on record. However, delay of 01 year 08 months and 07 days caused for bringing the legal representative of deceased defendant Kashinath Shamrao Munjane on record. Hence, these applications filed.

2] The original plaintiff and LR's of deceased Kashinath has filed his say on the back leaf of applications and contended that, applications is not filed within limitation, death certificate as well as heirship certificate are not on record, reason mentioned in the application is not genuine. Hence, to prayed to reject the applications with costs. Legal representative i.e. Shesherao served with notice vide exh. 291, however despite giving sufficient opportunity he failed to file his say on these applications. Hence, these applications decided on merit without his say.

3] Heard the learned Advocate for plaintiff and



proposed defendants . Perused the relevant record.

4] It reveals that the applications for bringing the LR's of deceased defendant on record are not made within limitation period of

90 days as prescribed by Article 120, of the Limitation Act, 1963, from the date of death of the deceased defendant no.2 in counter claim due to illness and he could not get the name and address of legal heirs on record. However, delay of 01 years 08 months 07 days caused for bringing the LR's of deceased defendant no.2 in counter claim on record and hence, present applications made by the plaintiff in counter claim for condonation of delay, setting aside abatement order and bringing the LR's of deceased defendant no.2 Kashinath in counter claim. Considering the above mentioned facts and circumstances the reason for delay is satisfactory. So also, if these applications are allowed, it will not affect the facts and circumstances of the present suit. So also, right to sue of deceased defendant no.2 Kashinath in counter claim is survived on the proposed defendant no.2/1 to 2/3. Hence, to decide the real controversy between the parties and to give proper opportunity, it is necessary to bring, the legal representatives of the deceased defendant no.2 Kashinath in counter claim on record of the suit. Hence, I pass following order.

ORDER

- 1] The application is allowed subject to cost of Rs.100 to be paid by applicant.
- 2] The delay for setting aside abatement order is



hereby condoned accordingly.

- 3] Abatement is hereby set aside.
- 4] Plaintiff is permitted to bring his LR's on record.
- 5] Plaintiff is directed to carried out necessary amendment within 14 days from this order.

Date: 01/02/2024.

(M.S. Luniya)
Jt. Civil Judge J.D, Chakur.



4 RCS No. 58/2008
Narayan Vs.. Dnyanoba &

C E R T I F I C A T E

I affirm that the contents of this P. D.F. file order are same word for word as per original order.

Name of Steno	: M.B. Pathan
Court Name	: M.S. Luniya, Jt.C.J.J.D., Chakur.
Order Date	: 01/02/2024
Order signed by presiding officer on	: 01/02/2024
Order uploaded on	: 01/02/2024