

**Order below Exh.68**

Read the application and record. According to plaintiff, the defendant no. 6 was died on 13.12.2018 leaving behind Udhav Vyankatrao Mane age, 45 years r/o Ajansonda (Bu) Tq. Chakur Dist. Latur and Kamal Kishanrao Jadhav Age, 48 yrs r/o Vittleshwar Nagar, Khanapur Road Nizamabad as legal heirs. The delay of 32 days is caused to bring L.R.'s of deceased defendant no.6 on record only due to obtaining death certificate of defendant no. 6 and searching names of legal heirs. So could not able to placed application on record within stipulated time. The delay caused is not intentional. So they prayed for setting aside abatement order.

2. They also filed applications for taking legal heirs of deceased defendant no. 6 on record and delay condonation. The matter is of valuable immovable property. So in the interest of justice he prayed for Setting aside abatement order and taking legal heirs of deceased defendant no. 6 on record. Defendant no. 1 to 4 formally objected the application on the ground that it is not made within time in spite of giving opportunity. Where as learned advocate for defendant no. 5 and 6 have no objection to this application.

3. Perusal of record shows that the suit is for partition and separate possession. The relationship between parties and relationship between deceased defendant no.6 with proposed legal heirs i.e. proposed defendants are also not disputed. Though death certificate is not filed on record, the death of defendant no.6 is not disputed by anybody.

4. Thus it appears that the death of defendant no.6 is not disputed. Moreover, the date of death is also not disputed. The proposed legal heirs and their relationship with deceased is also not disputed. Moreover this suit is for partition and possession. Perusal of record shows that the delay is caused due to searching of proper names of legal heirs. So the delay is not intentional. The applications for Delay condonation and taking legal heirs of deceased defendant no.6 are also placed on record. Hence, the application needs to be allowed. Hence, following order.

### **ORDER**

1. Application is allowed and abatement order against defendant no. 6 be set aside accordingly by condoning delay of 32 days.
2. Plaintiff is directed to add proposed defendants as defendant no. 6/1 and 6/2 within stipulated time.

Date : 06/07/2019

( Y.D.Koinkar )  
Jt. Civil Judge J. D. Chakur