



Common Order below Exh.35 & 36.

**MHLA150009552022
(Passed on 12/04/2024)**

This is an application filed by the plaintiff for delay condonation to bringing the legal representatives of deceased defendant no.2/2, Sahebrao Govind Kamble on record. According to plaintiff, the deceased defendant no.2/2, Sahebrao Govind Kamble is reported to be dead on 26/04/2016 at Daund, Dist. Pune, leaving behind his legal representatives namely 01. Smt. Shilabai Sahebrao Kamble (Wife), 02. Punam Pritam Mane (Daughter), 03. Arati Sahebrao Kamble (daughter). The LRs of deceased defendant no.2/2, Sahebrao Govind Kamble has to taken on record within 90 days, but due to lack of knowledge of demise of defendant no.2/2 as applicants are sugarcane labourer and they were wandering. They are only legal representatives and successors of deceased defendant no.2/2, Sahebrao Govind Kamble. According to learned advocate for plaintiff, the right to sue of plaintiff is survived on his legal representatives. Therefore, it is necessary to bring his legal representatives i.e. the proposed defendant No.2/2/1 to 2/2/3 on record.

2] Defendant 2/2/1 to 2/2/3 have filed their say on the back leaf of the application and contended that, deceased defendant no.2/2, Sahebrao Govind Kamble is died leaving behind his Lrs., as mentioned in the application.

3] Heard learned Advocate for the plaintiff. Perused the record. The fact of death of defendant no.2/2, Sahebrao Govind Kamble is not disputed. Moreover the relationship of proposed legal representatives with deceased defendant no.2/2,



Sahebrao Govind Kamble is also not disputed. Plaintiff has filed on record death certificate of deceased defendant no.2/2, Sahebrao Govind Kamble at Exh.37. He has also filed present application at Exh.35 saying that the defendant No.2/2 is died on 26/04/2016 leaving behind his legal representatives i.e. proposed plaintiff No.2/2/1 to 2/2/3. The right to sue of defendant no.2/2 is survived on defendant No.2/2/1 to 2/2/3.

4] It reveals that, the present application is not made within limitation period of 90 days as is prescribed by Article 120, of the Limitation Act, 1963, from the date of death of the deceased defendant. However, due to lack of knowledge of death of defendant no.2/2 , the plaintiffs was unable to take the legal representatives of defendant No.2/2 on record. Hence, present application is filed by the plaintiff.

5] Considering the above mentioned facts and circumstances the reason for delay is satisfactory. So also, if this application is allowed, it will not affect the facts and circumstances of the present suit. So also, right to sue survived. 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.2/2 on record of the suit. Hence, I pass following order.

ORDER

- 1] The application is allowed subject to cost of Rs.200 to be paid by applicant to defendants.
- 2] The delay for setting aside abatement order is hereby condoned accordingly.
- 3] Abatement is hereby set aside.



3 R.C.S. No.212/2022
Janabai Vs.. Vaijanath & ors.

- 4] Plaintiff is permitted to bring the LR's of defendant no.2/2 on record.
- 5] Plaintiff is directed to carried out necessary amendment within 14 days from this order.

Date: 12/04/2024

(M.S. Luniya)
Jt. Civil Judge (Jr.Dn.),Chakur



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	: 12/04/2024
Order signed by presiding officer on	: 12/04/2024
Order uploaded on	: 12/04/2024