

MHLA160000012001



RCS No.51/2008

Vikram Vs. Govind & Ors.

ORDER BELOW EXH.155.

This is application for condonation of delay.

2. Heard learned Advocate Shri. D.D. Somwad for plaintiffs and learned Advocate Shri. B.V. Patil for legal heirs of defendant No.2 at length.

3. I have carefully gone through the record and argument. This is suit for recovery of possession of landed property. Therefore, person in possessions of property and legal heirs of deceased defendant No.2 are necessary parties of the suit. This suit should not decide in their absence. There is need to decide the same on merit.

4. The defendant No.2 died on 23/01/2021. There is delay for setting aside abatement. According to the available record and argument the parties have relations therefore death of defendant No.2 was well within knowledge of the plaintiff. The sole reasons of he residing at Latur is insufficient to discard that knowledge. Once the plaintiff knowledge of death of defendant No.2, then searching for and waiting to collect death certificate is not good ground.

5. As per contentions of both parties the was stayed till 31/07/2021. Therefore, the plaintiff could not bring legal heirs of defendant No.2 on record. That reason is satisfactory. This application does not explain day to day delay. Thus, it is

appeared that, the plaintiff some extent deliberately caused delay for bringing legal heirs on record. It established his default.

6. Considering nature of suit and need of presence of all parties, there is need to grant an opportunity to correct the suit and bring legal heirs on record. In that event, nobody will face loss. On the contrary, it may help to decide right and liabilities of parties. If an opportunity is refused, there is a chance of miscarriage of justice. Hence, alleged delay can be condoned subject to cost of Rs.2000/-, vide Section 5 of the Limitation Act. In the result, I pass following order.

ORDER

1. The application is allowed and delay shall be condoned subject to cost of Rs.2000/- in the interest of justice.
2. The cost shall pay to the contesting legal heirs till next date in the interest of justice.
3. In default of payment of cost, order will be cancelled automatically.
4. An order dictated on computer and pronounced in open court.

Date : 14/08/2025.
Place :Deoni.

(S.A. Surjuse)
Civil Judge Junior Division,
Deoni, Dist. Latur.

MHLA160000012001



RCS No.51/2008

Vikram Vs. Govind & Ors.

ORDER BELOW EXH.159.

This is application for condonation of delay.

2. Heard learned Advocate Shri. D.D. Somwad for plaintiffs and learned advocate Shri. B.V. Patil for legal heirs of defendant No.2 at length.

3. I have carefully gone through the record and argument. This is suit for recovery of possession of landed property. Therefore, person in possessions of property and legal heirs of deceased defendant No.2 are necessary parties of the suit. This suit should not decide in their absence. There is need to decide the same on merit.

4. The defendant No.2 died on 23/01/2021. There is delay for bringing legal heirs on record. According to the available record and argument the parties have relations therefore death of defendant No.2 was well within knowledge of the plaintiff. The sole reason of he residing at Latur is insufficient to discard that knowledge. Once the plaintiff knowledge of death of defendant No.2, then searching for and waiting to collect death certificate is not good ground.

5. As per contentions of both parties the was stayed till 31/07/2021. Therefore, the plaintiff could not bring legal heirs of defendant No.2 on record. That reason is satisfactory. This application does not explain day to day delay. Thus, it is

appeared that, the plaintiff some extent deliberately caused delay for bringing legal heirs on record. It established his default.


6. Considering nature of suit and need of presence of all parties, there is need to grant an opportunity to correct the suit and bring legal heirs on record. In that event, nobody will face loss. On the contrary, it may help to decide right and liabilities of parties. If an opportunity is refused, there is a chance of miscarriage of justice. Hence, alleged delay can be condoned subject to cost of Rs.1000/-, vide Section 5 of the Limitation Act. In the result, I pass following order.

ORDER

1. The application is allowed and delay shall be condoned subject to cost of Rs.1000/- in the interest of justice.
2. The cost shall pay to the contesting legal heirs till next date in the interest of justice.
3. In default of payment of cost, order will be cancelled automatically.
4. An order dictated on computer and pronounced in open court.

Date : 14/08/2025.
Place :Deoni.

(S.A. Surjuse)
Civil Judge Junior Division,
Deoni, Dist. Latur.

MHLA160000012001 	<u>RCS No.51/2008</u> <u>Vikram Vs. Govind & Ors.</u>
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ORDER BELOW EXH.157.

This is application to set aside abatement of suit against defendant No.2.

2. Heard learned Advocate Shri. D.D. Somwad for plaintiffs and learned advocate Shri. B.V. Patil for legal heirs of defendant No.2 at length.

3. I have carefully gone through the record and argument. The plaintiff failed to bring legal heirs of defendant No.2 on record within stipulated period. Therefore, suit was abated against defendant No.2. This is suit for possession of landed property. Therefore, all possessor are necessary party of the suit. This suit should not decide in their absence. I have condoned delay for filing this application and bringing legal heirs on record, vide order below application (Exh.155).


4. The right to sue survived against propose legal heirs. Their presence is required to decide right and liabilities of the parties. Considering nature of the suit and need of presence of all parties, there is need to grant an opportunity to bring legal heirs on record. In that event nobody will face loss. On the contrary, it may help to decide right and liabilities of parties. If an opportunity is refused, there is a chance of miscarriage of justice. The reasons recorded as above are sufficient to allow this application subject to cost. I found substance in the application. In the result, I pass following order.

ORDER

1. The application is allowed and set aside abatement against defendant No.2 subject to cost of Rs.1000/- in the interest of justice.
2. The cost shall pay to the contesting legal heirs till next date in the interest of justice.
3. In default of payment of cost, order will be cancelled automatically.
4. An order dictated on computer and pronounced in open court.

Date : 14/08/2025.
Place :Deoni.

(S.A. Surjuse)
Civil Judge Junior Division,
Deoni, Dist. Latur.

MHLA160000012001 	<u>RCS No.51/2008</u> <u>Vikram Vs. Govind & Ors.</u>
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ORDER BELOW EXH.161.

This is application to bring legal heirs of defendant no.2 Shesherao Dnyanoba Madde on record.

2. Heard learned Advocate Shri. D.D. Somwad for plaintiffs and learned advocate Shri. B.V. Patil for legal heirs of defendant No.2 at length.

3. I have carefully gone through the record and argument. This is suit for possession of landed property. Therefore, all possessor are necessary party of the suit. The defendant no.2 died on 23/01/2021. This application filed on 24/11/2023. The alleged delay is condoned vide order below application Exh.159. Similarly, abatement of suit is also set aside vide order below application Exh.157. The right to sue survived against propose legal heirs of defendant no.2. Their presence is required to decide right and liabilities of the parties and adjudicate the suit on merit. The reasons recorded as above are sufficient to allow this application, vide Order XXII Rule 4 (1) of the Code of Civil Procedure. I found substance in the application. In the result, I pass following order.

ORDER

1. The application is allowed in the interest of justice.
2. The plaintiff is permitted to bring proposed legal heirs of defendant no.2 Shesherao Dnyanoba Madde on record, in

the interest of justice.

3. The plaintiff shall carry out the proposed amendment within stipulate period, if failed necessary order will pass.
4. Order dictated on computer and pronounced in open court.

Date : 14/08/2025.
Place :Deoni.

(S.A. Surjuse)
Civil Judge Junior Division,
Deoni, Dist. Latur.

MHLA160000012001



RCS No.51/2008

Vikram Vs. Govind & Ors.

ORDER BELOW EXH.165.

This is application to bring legal heirs of defendant no.1 Govind Dnyanoba Madde on record.

2. Heard learned Advocate Shri. D.D. Somwad for plaintiffs and learned advocate Shri. B.V. Patil for legal heirs of defendant No.1 at length.

3. I have carefully gone through the record and argument. This is suit for possession of landed property. Therefore, all possessor are necessary party of the suit. The defendant no.1 died on 14/12/2023. This application filed within stipulated period. The right to sue survived against propose legal heirs of defendant no.1. Their presence is required to decide right and liabilities of the parties and adjudicate the suit on merit. The reasons recorded as above are sufficient to allow this application, vide Order XXII Rule 4 (1) of the Code of Civil Procedure. I found substance in the application. In the result, I pass following order.

ORDER

1. The application is allowed in the interest of justice.
2. The plaintiff is permitted to bring proposed legal heirs of defendant no.1 Govind Dnyanoba Madde on record, in the interest of justice.
3. The plaintiff shall carry out the proposed amendment

within stipulate period, if failed necessary order will pass.

4. Order dictated on computer and pronounced in open court.

Date : 14/08/2025.
Place :Deoni.

(S.A. Surjuse)
Civil Judge Junior Division,
Deoni, Dist. Latur.