


MHLA160000032020 	<u>R.C.S. No.03/2020</u> <u>Laxman Vs. Dhondiba & Ors.</u>
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ORDER BELOW EXH.34.

This is application for condonation of delay.

2. Heard learned Advocate Shri. A.A. Bhosale for plaintiff and learned Advocate Shri. S.B. Patil for defendant at length.

3. I have carefully gone through the record and argument. This is suit for perpetual injunction. The defendant No.3 is widow of defendant No.2. The plaintiff want to add son Madhav Ramrao Biradar. The reasons of death of advocate is satisfactory.

4. The defendant No.2 died on 08/12/2024. The plaintiff's Advocate died on 16/03/2025. This application filed on 02/05/2025. 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.500/-, vide Section 5 of the Limitation Act. In the result, I pass following order.


ORDER

1. The application is allowed and delay is condoned subject to cost of Rs.500/- in the interest of justice.

2. The cost shall pay to the contesting defendants 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 : 19/09/2025.
Place :Deoni.

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

MHLA160000032020 	<u>R.C.S. No.03/2020</u> <u>Laxman Vs. Dhondiba & Ors.</u>
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ORDER BELOW EXH.37.

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

2. Heard learned Advocate Shri. A.A. Bhosale for plaintiff and learned Advocate Shri. S.B. Patil for defendant at length.

3. I have carefully gone through the record and argument. The plaintiffs failed to bring legal heirs of defendant No.2 on record within stipulated period. Therefore, the suit was abated against him. This is suit for perpetual injunction. Therefore, legal heir is necessary party of the suit. This suit should not decide in his absence. I have condoned delay for filing this application and bringing legal heirs on record, vide order below application (Exh.34).

4. The right to sue survived against propose legal heir. His 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 of suit against defendant No.2 subject to cost of Rs.500/- 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 : 19/09/2025.
Place :Deoni.

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

MHLA160000032020



R.C.S. No.03/2020

Laxman Vs. Dhondiba & Ors.

ORDER BELOW EXH.35.

This is application to bring legal heir of defendant No.2 Ramrao Gopalrao Biradar on record.

2. Heard learned Advocate Shri. A.A. Bhosale for plaintiff and learned Advocate Shri. S.B. Patil for defendant at length.

3. I have carefully gone through the record and argument. This is suit for perpetual injunction. Therefore, all legal heirs are necessary parties of the suit. Defendant No.3 being a widow of defendant No.2 is already part of the suit. But, his son is not part of the suit. The defendant No.2 died on 08/12/2024. This application filed on 02/05/2025. The alleged delay is condoned vide order below application Exh.34. Similarly, abatement of suit is also set aside vide order below application Exh.37. The right to sue survived against propose legal heir. His 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 heir of defendant No.2 on record, in the interest of justice.
3. The entry of defendant No.3 is legal heir of defendant No.2 shall be effected on record.
4. The plaintiff shall carry out the proposed amendment within stipulate period, if failed necessary order will pass.
5. Order dictated on computer and pronounced in open court.

Date : 19/09/2025.
Place :Deoni.

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