

MHLA160009992015



R.C.S. No.72/2016
Balaji & Ors. Vs. Ram

ORDER BELOW EXH.41.

This is application for condonation of delay.

2. Heard learned Advocate Shri. B.V. Patil for plaintiffs and learned Advocate Shri. M.B. Patil for legal heirs of defendant at length.

3. I have carefully gone through the record and argument. This is suit for declarations of ownership. The defendant had also shown his right and interest in the suit property. Therefore, legal heirs of deceased defendant are necessary parties of the suit.

4. The defendant died on 02/04/2022. His legal heirs applied for add them a legal share in this suit on 15/12/2023. But the plaintiff have not knowledge of that fact 03/06/2023. But thereafter the plaintiff has filed application immediately. There is delay of six months which is not explained satisfactory. It is appeared that, the plaintiffs deliberately caused delay for setting aside abatement. It established their default.

5. 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.

MHLA160009992015 	<u>R.C.S. No.72/2016</u> <u>Balaji & Ors. Vs. Ram</u>
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ORDER BELOW EXH.41.

This is application to set aside abatement of suit against defendant.

2. Heard learned Advocate Shri. B.V. Patil for plaintiffs and learned Advocate Shri. M.B. Patil for legal heirs of defendant at length.

3. I have carefully gone through the record and argument. The plaintiffs failed to bring legal heirs of defendant on record within stipulated period. Therefore, the suit was abated against him. This is suit for declaration of ownership. Therefore, legal heirs 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.39).

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 of suit against defendant 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.

MHLA160009992015



R.C.S. No.72/2016
Balaji & Ors. Vs. Ram

ORDER BELOW EXH.43.

This is application to bring legal heirs of defendant Ram Hanmantrao Murale on record.

2. Heard learned Advocate Shri. B.V. Patil for plaintiffs and learned Advocate Shri. M.B. Patil for legal heirs of defendant at length.

3. I have carefully gone through the record and argument. This is suit for declaration of ownership. Therefore, all legal heirs are necessary parties of the suit. The defendant died on 02/04/2022. This application filed on 15/12/2023. The alleged delay is condoned vide order below application Exh.39. Similarly, abatement of suit is also set aside vide order below application Exh.41. The right to sue survived against propose legal heirs. 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 plaintiffs are permitted to bring proposed legal heirs

of defendant Ram Hanmantrao Murale on record, in the interest of justice.

3. The plaintiffs 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.