



RCS No. 180025/2011

R.C.S.No. 180025/2011.**IRMA VALVI OTHERS 9.****VS MAKTYA VALVI OTHERS 7.****COMMON ORDER PASSED BELOW EXH. 81, 84 and 87.**

(Passed On:14.03.2022)

Plaintiffs have filed the application Exh. 87 and 84 for condonation of delay in bringing legal representatives of the deceased defendant namely Pandya Tukya Valvi on record and for setting aside abatement order respectively. He has also filed application for bring legal representatives of the deceased defendant on record at Exh. 81.

2. It is contended that, the deceased defendant Pandya Tukya Valvi was died on 30.0.2019. Due to heavy rainfall and unable to collect information of heir of deceased defendant. There is delay of 70 days for filing both applications at Exh.81 and 84. If the said delay is condone then there is no loss to defendants. The said delay is not intensional. Therefore, prayed that the said delay should be condoned and abatement be set aside in the interest of justice and the legal representative of the deceased defendants to be taken on record. The applications are supported by an affidavits.

3. The say of the other side was called. The other side had filed say at Exh. 83 and 85 and submitted that, the applicant have not filed delay condonation application as time to filed application for to bring legal heir on record is lapse. Moreover, he had not explained the delay properly as per say on Exh.87. Hence, applications are liable to be rejected.

4. Perused the applications and say thereto. Perused the record and proceeding. Heard both the side at length. From the record it is seen that the plaintiff have filed present suit for the injunction and possession of the suit property. On perusal of the death certificate vide pursis at Exh. 78. It reveals that,



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the defendant Pandya Tukya Valvi was died on 30.03.2019. Thereafter, this applications are filed after lapsed of time.

5. Considering the reasons cited in the application and considering the prayers in the suit, the Suit is filed for the injunction and possession of the suit property on the basis of ownership and therefore being the legal heirs of the deceased the right to sue survives against the plaintiffs. Even though there is delay in filling the present application the legal representatives of the defendants are required to be taken on record for the purpose of effectively and completely adjudicate the matter. The applicants have contended that there are no other legal representatives of the defendants except named in the application at Exh. 81. Therefore in the light of the above reasoning and in the interest of justice, I proceed to pass the following order..

ORDER

1. The applications at Exh.81, 84 and 87 are allowed subject to cost of Rs.500/- (Rs. Five Hundred only) to be paid to the defendants.
2. After payment of costs the legal representative of deceased defendants namely Pandya Tukya Valvi as mentioned in Para no.1.of Exh. 81 are permitted to be taken as defendants.
3. Necessary amendment in the plaint be carried out within the period of 14 days from the date of this order.

Place: Dhadgaon
Date: -14.03.2022

(Dipak G. Kankhare)
Civil Judge Jr. Div., Dhadgaon.



CERTIFICATE

I, affirm that the contents of this PDF file are word to word as per Original Order.

Name of the Steno :- Shri. M. D. Patil
(Jr. Clerk)

Name of the Court :- Civil Judge J.D. & J. M. F.C.,
Dhadgaon

Order Signed by

Presiding Officer on: :- 14.03.2022

PDF Uploading Date :- 14.03.2022