

CNR NO. MHND100004722019

R.C.S.No.77/2019ShankarVersusBalaji

Order Below Exh.40
(Passed on 28/07/2023)

The present application is filed by plaintiff for condonation of delay caused in bringing legal representatives of deceased defendant No.2 on record.

2. It is contended by the plaintiff that defendant No.2 Shivaji Bhivsen Munde died on 10/10/2021 during pendency of the suit. As per law, his legal representatives, needs to be brought on record within 90 days. But, due agricultural work and private work, plaintiff could not brought the the L.Rs.of deceased defendant No.2 on record within period of limitation ,there is delay of. 1 year 23 days. It is, thus, urged to condone delay in bringing legal representatives of deceased defendant No.2 on record.

3. Defendants failed to file say and as such, application is proceeded without their say vide order dated 19/04/2023.

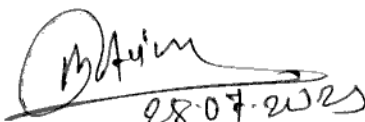
4. Heard learned Advocates for plaintiff. Perused the record.

5. Admittedly, defendant No.2 died on 10/10/2021 i.e. prior to filing of present suit. Suit is for declaration of ownership and perpetual injunction. Plaintiff stated that due to agricultural work and private work he could not attend the Court. Valuable rights of the parties in the property are involved. Whether plaintiff was having knowledge of death of defendant No.2 or not is not material question. But, the rights and interest of legal representatives of deceased defendant No.2 are involved in the suit lands. Therefore, legal representatives of deceased defendant No.2 are necessary parties to the present suit. For proper adjudication of mater, it is necessary to bring them on record. Considering all these facts, it is proper to condone delay by imposing heavy cost. Hence, I pass following order :-

Order

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| 1. | Application is allowed subject to payment of cost of Rs.7,00/-. |
| 2. | Costs in cause. |

Date:- 28/07/2023


(Smt.R.A.A.Khatib)
Joint Civil Judge Jr. Dn.
Kandhar.