

MHND160011462017



ORDER BELOW EXH.15 IN CIVL M.A. No.106/2017
(Darubai Punjaji Shinde and Others Vs. Dyaneshwar Vasanta Shinde and Others)

1. The Present application is filed by the applicant No. 2 under Order XXII Rule 4 read with section 151 of the Code of Civil Procedure, 1908, seeking to set aside order of abatement of application for bringing legal representatives of deceased applicant No.1 on record.
2. It is the contention of the applicant No.2 that, applicant No.1 namely Darubai Punjaji Shinde died on 30.01.2018. As per Order XXII Rule 4 of the Code of Civil Procedure, 1908, an application to bring the legal representative of the deceased defendant No.01 on record was required to filed within 90 days from the date of death of applicant No.1. It is further stated that, due to misconception of fact and over sight on the part of applicant No.2, who was under the impression that, the legal representatives of applicant No.1 were already brought on record, hence could not taken necessary steps within time. He has supported this application by an affidavit. Hence, he prayed to set aside abatement order for bringing the legal representative of deceased applicant No.1
3. Respondent have filed their say through their counsel. He objected on the ground that, present application is not limitation. Lastly, he prayed to reject the application.
4. This Court has considered the application and affidavit annexed thereto. Both the learned counsel for the parties have argued on the application. The applicant demonstrated that the delay in filing the application to bring the legal representatives on record was due to lack of knowledge about procedure and he was

under impression that legal representatives of applicant No.1 is already on record. This Court finds that applicant No.2 has shown sufficient cause for delay in filing the application, as required under Order XXII Rule 9(2) of the C.P.C, which empowers the court to set aside abatement upon satisfaction of just cause. In view of this, if application is allowed then no prejudice will be caused to the respondents. The ends of justice would be better served by deciding the matter on merits rather than on technical grounds. Hence, abatement is set aside and I pass following order.

ORDER

1.	Application at Exh. 15 is allowed.
2.	The abatement is set aside.
3.	Both parties to bear their coste.

Date : 23/07/2026

(Smt.S. S.Lohkare-Jadhav)
Jt.Civil Judge Junior Division,
Hadgaon, Dist Nanded.

CERTIFICATE

I affirm that the contents of this P.D.F. file Order are same word to word, as per the original Order.

Name of the Clerk	:	O.B.Patre
Court Name	:	Jt. CJJD, Court, Hadgaon.
Date	:	23/07/2026
Order signed by the Presiding Officer on	:	23/07/2026
Order uploaded on	:	23/07/2026