

**MHNG130008982014**



**R.C.S. No. 1400046/2014**

*Rustam Ramteke*

v.

*Ajay Tembhone & others.*

**COMMON ORDER BELOW EXH. 70 & 71**

(Passed on dated 26/08/2025)

These applications are filed by the plaintiff for condonation of delay in bringing legal heirs of defendant no. 1, 4 & 6 on record, setting aside abatement and to bring the legal heirs of defendant no. 1, 4 & 6 on record. It is submitted that defendant no. 1, 4 & 6 were died during the pendency of the suit, but the plaintiff was not aware about the death of them due to Covid-19. Thereafter, when plaintiff got the knowledge of their death due to strained relations between them, he could not gather the information. Therefore, the delay is caused.

2. These application are opposed by the defendants and submitted that defendants have filed pursis on record regarding the death of defendant nos. 1, 4 & 6. Plaintiffs inspite of having knowledge intentionally delayed to file present applications. Hence he prayed to reject the applicaiton.

3. Perused the record. Heard both the sides.

4. On perusal of record, it appears that on 23/12/2021, defendants have filed Pursis at Exh. 69 communicating death of defendant no. 1, 4 & 6. Inspite of having knowledge of death of defendant nos. 1, 4 and 6, the plaintiff filed this present applications on 01/09/2023.

5. Admittedly, the defendant no. 1, 4 and 6 died during the pendency of the present suit. The right to sue survives. The suit is for possession, declaration and permanent injunction. Considering the nature of the suit and reason mentioned by the plaintiff, in the interest of justice and for fair trial, it is necessary to condone the delay and bring to legal heirs on record. No prejudice will be caused to the plaintiff if the present applications are allowed. Admittedly, there is a delay, but at the same time the delay caused is required to be compensated by saddling the costs on the plaintiff. Hence, I proceed to pass the following order :-

**ORDER**

1. Applications at Exh. 70 and 71 are allowed.
2. Delay in filing the application for bringing legal representatives on record is condoned subject of costs of Rs. 1,000/- to be payable by the plaintiff on or before next date.
3. Abatement is hereby set aside.
4. Proposed legal heirs of deceased defendant no. 1, 4 and 6 mentioned at Exh. 71 are allowed to be taken on record.
5. Plaintiff to carry to out necessary amendment within 14 days from the date of this Order.

Date: 26/08/2025

Sd/-  
(D. C. Vorani)  
2<sup>nd</sup> Joint Civil Judge Junior Division,  
Ramtek.