

COMMON ORDER BELOW EXH-45 & 46
(Passed on 08.11.2024)

The legal heirs of deceased plaintiff No.1 have filed the present application for setting aside the abatement order, condonation of delay in filing the application for bringing the legal heirs of deceased plaintiff No.1 and grant of permission for taking them on record in the place of original defendant No.1.

2. Learned advocate for the applicants submitted that the applicants were the legal heirs of plaintiff No.1. Plaintiff No.1 died on 31.10.2023 leaving behind the applicants as his legal heirs. However, due to lack of legal knowledge, the said fact was not intimated by the other plaintiffs to the advocate for the plaintiffs. The applicants were the necessary parties for the decision of the present suit on merits. The cause of action survive to them upon the death of plaintiff No.1. Hence, he prayed that the applications be allowed and the applicants be taken on record as legal heirs of deceased plaintiff No.1.

3. The defendants failed to file reply to the present applications despite sufficient opportunity. Hence, the application is being decided without their reply.

4. Perused the applications and the record. The present suit has been filed for seeking a declaration that the plaintiffs are

the exclusive owners of S.No.29, ad-measuring 0.58 HR (hereinafter referred to as 'the suit property'). Therefore, after the death of plaintiff No.1, cause of action survives to the applicants, being the widow and children of deceased plaintiff No.1 and no effective decree can be passed in the present matter, without adding them as parties. The applicants have sufficiently explained the reason for not filing the present application within the limitation period. Therefore, I deem it fit to condone the delay in moving the application to set aside the abatement order and to bring the legal heirs of deceased plaintiff No. 1 on record. Accordingly, I pass the following order:

ORDER

1. The applications are allowed.
2. The delay in making the application for setting aside the abatement order is hereby condoned, the abatement order in respect of plaintiff No.1 is hereby set aside and the applicants are allowed to be brought on record as legal heirs of deceased plaintiff No.1.

Date- 08.11.2024

(A.B.Kadian)
Civil Judge Junior Division,
Mouda