

Regular Civil Suit No. 33/2015
COMMON ORDER BELOW EXH. 64 & 65
[Passed on 07.11.2022]

These applications filed by the legal heirs of deceased plaintiff Santosh Kurutkar to bring them on record along with condonation of delay.

2. The applicants submitted that, plaintiff Santosh Kurutkar was died on 24.03.2020 and the applicant no.2 & 3 are the son of plaintiff and applicant no.4 is daughter of plaintiff. Plaintiff's son Gunwanta was died. So applicant no.1-A & 1-B are the grand son of Santosh and applicant no.1-C is widow of Gunwanta. Applicant no.5 is wife of plaintiff. So they all are legal heirs of the plaintiff and their presence is necessary for adjudication of the present suit. The applicant further submitted that, the plaintiff was died in Corona pandemic on 24.03.2020. Due to that the applicant did not able to approach to the counsel of plaintiff to inform about the death of plaintiff. The applicant further submitted that, applicants are illiterate. So they have no knowledge about court proceedings after the death of plaintiff. So due to that they have delay to file this application. Therefore, plaintiff prayed to condone the delay and allow the application to bring them on record.

3. Defendant objected the application on the ground that, the plaintiff was died on 24.03.2020 though this particular fact is suppressed from the Court by the applicants. This application is filed by the applicants after the lapse of 90 days and they could not prayed for setting-aside abatement of the

suit. Therefore, the reason stated in the application is not proper. So defendant prayed to reject the application.,

4. These applications are filed by heirs of deceased sole plaintiff Santosh Zitru Kurutkar to condone the delay which caused to file application to bring them on record as heirs of deceased sole plaintiff. Perused the record, it appears that, the present suit filed by the plaintiff for declaration and possession of encroachment land. The plaintiff is sole plaintiff file this suit for declaration and injunction. As perusal of application at Exh.64, it appears that, the legal heirs are wife, son and daughter of deceased plaintiff. It is settled that liberal approach should be taken while deciding the application for condonation of delay to bring legal heirs of deceased party on record. In these circumstances, applications deserve to be allowed subject to costs. Hence, the order.

ORDER

1. Applications vide Exh. 64 & 65 are allowed subject to costs of Rs.700/- (Rs.Seven Hundred only) which is payable to the defendant.
2. Delay caused to bring legal heirs of deceased plaintiff Santosh Zitru Kurutkar on record is hereby condoned.

3. The applicants are permitted to bring them on record as legal heirs of deceased plaintiff Santosh Zitru Kurutkar.
4. Applicants to file amended copy of plaint on record.
5. The applicants are directed to deposit costs on or before next date.

Bhiwapur
07/11/2022

S.J. Lad
Civil Judge Junior Division
Bhiwapur.
