

MHNG180000032001



**ORDER BELOW EXH. 64**  
**(Passed on this 13<sup>th</sup> December, 2019)**

1. The plaintiff has filed present application u/s 5 of Limitation Act. It is contended that defendant no. 2 died on 20.10.2016. At that time the plaintiff was busy in election duty. Therefore, she could not bring legal representative of deceased defendant no. 2 on record. Delay on the part of plaintiff is not intentional. He lastly prayed to condon the delay.

2. Defendant filed their say vide Exh. 73. They contended that, the plaintiff and defendants are residents of same village. She was well aware about the death of defendant no. 2. There is 60 days delay in filling this application. Furthermore, delay is not explained by the plaintiff. Hence, the defendant sought for rejection of application.

3. Heard, both the learned counsels. It is noticeable that, the plaintiff has not denied the knowledge about the death of defendant no. 2. The reason putforth by the plaintiff is that she was busy in election programme. Perusal of plaint shows occupation of plaintiff no. 1 as service. It is well settled principle of law that, each and

every hours delay need not be explained. Furthermore, sixty days delay is not inordinate which can be compensated by putting cost on the plaintiff. Present suit is more than ten years old. Furthermore, relief of partition is claimed in the suit. It means both plaintiff and defendants have right in the property. No prejudice would be caused to either parties by bringing LR's of defendant no. 2 on record. Rather, it would help to decide matter on merit. Hence, I pass following order :-

**ORDER**

1. Application is allowed subject to costs of Rs. 300/- to be paid to the proposed LR's of defendant no. 2 .
2. Delay caused for bringing LR's of defendant no. 2 record is hereby condon.

**Kalmeshwar.**  
**Date:13.12.2019.**

**(H.N. Pole)**  
**Jt. Civil Judge Junior Division,**  
**Kalmeshwar, Dist. Nagpur.**

**ENDORSEMENT**

Application Argued on	:	13.12.2019
Order dictated on	:	13.12.2019
Transcription Ready on	:	13.12.2019
Order checked and signed off	:	13.12.2019

**CERTIFICATE**

I affirm that the contents of the this PDF file order are same word to word,  
as per the original Order.

Name of the Stenographer           :-       R.M. Parmal (Lr. Gd)