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R.C.S. NO. 53/2015
Suryabhan Vs. Pundlik & Ors

MHNG180009822015

R.C.S. No. 53/2015



ORDER BELOW EXH. 88
(Passed on this 22nd January, 2026)

1. Present application is filed by the plaintiff for setting aside abatement order. It is submitted that, the plaintiff have filed application for bringing LRs on record of deceased defendant No.2. In the first week of the plaintiff got knowledge about the death of defendant No.2 on 10/07/2024. That though the defendant No.2 expired during the pendency of the suit the other defendant failed to intimated to the Court about the death of defendant No.2 as well as the plaintiff has no knowledge about the death of defendant No.2 and therefore he could not intimated to the Court. That when the plaintiff got knowledge about the death of the defendant No.2 he immediately approach before the Hon'ble Court. That, accordingly to law the suit has been abated against the defendant automatically for want of knowledge the plaintiff could not file the application within time for bringing LRs on record. Hence, he prayed to allowed the application in the interest of justice.

2. Called the say of defendants. The Advocate for defendant strongly opposed the said application and prayed for rejection with heavy cost. The defendant further submitted that the reason stated by the plaintiff is not bonafide. The plaintiff being blood relative well aware about the death of the defendant although not taken any steps to bring the LRs on Court record. The conduct of plaintiff itself shows he is not interested in contesting the matter on merits. Hence prayed to reject the application with heavy cost.

3. Perused the record and application. Heard both sides.

4. On perusal of record it is seen that defendant No.2 i.e. Haribhajan Gulab Gaikwad is died on 19/08/2023. Plaintiff has filed copy of death certificate of deceased defendant No.2 on record. The application is supported by affidavit. As regards to delay it has already been condoned vide order Exh.87. Right to sue survives for LR's of the deceased defendant No.2. No prejudice will be cause to the other defendants and plaintiff if said application is allowed. It is cardinal principle of law that, no man should be condemn unheard. Right to defend is the right which is

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conferred by the principles of the natural justice. Principle of natural justice requires that, each party must get an opportunity to defend himself. Hence, considering the same and facts of the case, also in order to avoid further delay and to expedite the matter, I pass following order :

ORDER

1. Application Exh.88 is allowed.
2. Deemed abatement is hereby set aside.
3. Both parties to take note.

Kalmeshwar.
Date: 22/01/2026

(S.B. Mandwe)
Jt. Civil Judge Junior Division,
Kalmeshwar.

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CERTIFICATE

I affirm that the contents of this P.D.F. File
Judgment are same word to word as per original Judgment.

Name of Stenographer : *Shri. Ashish K. Wasnik (Grade-III)*
Date of PDF : 22/01/2026.
Judgment Signed by
Presiding Officer on : 22/01/2026.
Judgment uploaded on : 22/01/2026.