

MHNG180010792017



**ORDER BELOW EXH. 25**  
**(Passed on this 1<sup>st</sup> July, 2025)**

1. Perused the application. Present application is filed by the plaintiff for setting aside abatement and grant permission to bring legal heirs of defendant no.2 on record. It is submitted that, plaintiff has filed the suit for declaration, partition and permanent injunction. It is submitted that, defendant no. 2 Purushottam Parasram Dongarwar is died on 06.07.2019 leaving behind three legal heirs. There is no other legal heirs of the deceased defendant no. 2. There is bitterness in relationship between the plaintiff and defendants. The plaintiff came to know about the death of defendant no. 2 when legal heir of defendant no. 2 filed pursis vide Exh. 24. Defendant no. 2 filed death certificate of defendant no. 2 Purushottam Parasram Dongarwar which shows that, deceased defendant no. 2 Purushottam Parasram Dongarwar died on 06.07.2019. Hence, prayed to allow the application.

2. Called the say of defendants. Advocate for L.R.'s of Defendant no. 2 filed their no objection to application.

3. Perused the record and application. It is seen that, defendant no.2 i.e. Purushottam Parasram Dongarwar is died on 06.07.2019. Therefore, suit came to be abated. Right to sue survives for LR's of the defendant no. 2. No prejudice will be cause to the other defendants 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 conferred by the principles of the natural justice. Principle of natural justice requires that, each party must get an opportunity to defend himself. Also, in the present case, delay is already condoned in bringing LR's of deceased defendant no. 2 vide order Exh. 26. 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.25 is allowed.
2. Deemed abatement is hereby set aside.
3. The plaintiff is directed to brought L.R's of deceased defendant no. 2 on record within 14 days.
4. Plaintiff shall carry out necessary amendment in the plaint to that effect.

**Kalmeshwar.**  
Date: 01.07.2025

Sd/-  
(S.B. Mandwe)  
Jt. Civil Judge Junior Division,  
Kalmeshwar, Dist. Nagpur.

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R.C.S. NO. 55/2017  
Kalpana Tagde Vs. Nagubai Dongarwar  
& Ors.

**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)