


<b>MHNG180011452019</b> 	<b><u>JOINT ORDER BELOW EXH. 16,18 &amp; 19</u></b> <b><u>Bhimrao .vs. Sudhakar &amp; Ors.</u></b> <b>(Passed on this 09<sup>th</sup> December, 2021)</b>
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1] Present applications are filed by the plaintiffs for condonation of delay in bringing the Legal Representatives of defendant No. 2, to set aside abatement and to bring LR's of deceased defendant No. 2 on record. It is contended in the applications that, defendant No. 2 namely Chirkut Bajirao Bodhane died on 02.05.2021. The plaintiffs were unaware about the death of defendant No. 2. The defendant No. 1 also have not filed any pursis in that regard. During the period upto March-2021 there was lock down due to Covid – 19 Pandemic. Therefore, the plaintiffs could not contact the counsel. On these grounds, the plaintiffs prayed to condone the delay, set aside abatement and add LR's of defendant No. 2 as party to this suit.

2] Defendant No. 1 resisted the applications on the ground of want of sufficient cause. He contended that, the plaintiffs was well aware about the death of defendant No. 2 as they are neighborer. The plaintiffs have not shown sufficient grounds to condone the delay and to set aside abatement. The plaintiffs lastly prayed to reject the applications.

3] Heard Ld. Counsel Shri S.S. Gaidhane for the plaintiffs and Shri R.R. Thaware for defendant No. 1. Before proceeding further it is necessary to mention here that present suit is filed for the relief of

declaration, permanent and mandatory injunction. Therefore, right to sue is survived to plaintiffs. So far as grounds for delay is concern, I would like to mention here that, till July-2021 there was lock down. So also limitation period was also extended as per the order of Hon'ble Supreme Court of India. Therefore, grounds mention by the plaintiffs appears to be believable. Apart from this, I would like to mention here that, it is well settled principle law that, procedural law shall be interpreted liberally. It is not meant to destroy the substantive rights of the parties. No prejudice would be caused to the other party by bringing legal representatives on record. Rather, it would help to decide matter on merit. Hence, following order is passed.

### **ORDER**

1. Applications are allowed.
2. Delay cause in bringing legal representatives of deceased defendant No. 2 is hereby condoned.
3. Abatement is hereby set aside.
4. The plaintiffs are permitted to add LR's of defendant No. 2 as defendants.
5. Plaintiff shall carry out necessary amendment to that effect on or before next date.

**Kalmeshwar.**  
**Date: 09.12.2021.**

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

**ENDORSEMENT**

Application Argued on	:	09.12.2021
Order dictated on	:	09.12.2021
Transcription Ready on	:	09.12.2021
Order checked and signed off	:	09.12.2021

**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.S. Daware (Gr. III)