

MHNS010040492019

Jagannath Valu Chothe] **Appellant**



Vs.

Laxmikant Ramesh Thete]

and others]

Respondents

Common Order below Exhs.31, 32 and 33
in Regular Civil Appeal No.179/2019

1] Application (Exh.31) is filed for setting aside an order of abatement. Application (Exh.32) is filed for condonation of delay in filing an application for bringing legal representatives of appellant Jagannath Valu Chothe on record. Application (Exh.33) is filed for taking legal representatives of appellant on record.

2] It was submitted that, appellant had died on dated 21/09/2021, however, the legal representatives of appellant was not having knowledge about pendency of the appeal, and in the month of February when the legal representatives were informed about the appeal, they came to know about it and hence, legal representatives of appellant have filed the present applications.

3] By filing say, respondent Nos.1 and 2 have objected the applications on the ground that no sufficient and reasonable cause has been shown for delay in bringing the legal

representatives of appellant on record and hence, they prayed for rejection of the applications.

4] It reveals from the record that, the appellant Jagannath Valu Chothe had died on dated 21/09/2021 and it was contended that, the legal representatives of appellant had no knowledge about pendency of the appeal, and in the month of February they came to know about it. They have filed present applications on dated 22/02/2022.

5] It may be noted that, due to surge of Covid-19 cases across the country, the Hon'ble Apex Court has taken the Suo Motu petition No.3 of 2020 and has saved the period of limitation from dated 15/03/2020 to 28/02/2022. Meanwhile the present applications have been filed, which are apparently well within the period of limitation.

6] So also, the right to sue survives to the legal representatives of appellant. Therefore, their presence is essential. In such circumstances, considering the facts of the case and in the interest of justice, if the applications are allowed that will serve the purpose of legal representatives of deceased appellant and no prejudice will be caused to the respondents.

7] Thus, for the reasons mentioned above, I am inclined to allow the applications and proceed to pass the following order :-

ORDER

- 1] The applications are allowed.
- 2] The delay in filing the application for taking the legal representatives of appellant is hereby condoned and the abatement order is set-aside.
- 3] The legal representatives of deceased appellant are allowed to be taken on record.
- 4] The legal representatives of deceased appellant to make necessary compliance as per rules, within stipulated time.

(Dictated, delivered and pronounced in an open Court)

Date :- 17/12/2025.

Nashik.

(S.D.Jagmalani)
Principal District Judge,
Nashik.