

Regular Civil Suit No. 293 of 2018

Nandakumar Bhausahab Shethe & others

Vs

Smt Hamshera Babu Pathan & others

Common Order below Exhs. 79, 81 and 86

By these applications plaintiffs have requested for condonation of delay and setting aside abatement which has caused on account of death of plaintiff No.1 and defendant No.4. According to plaintiffs, the LRs of deceased plaintiff No.1 as well as LRs of deceased defendant No.4 could not be brought on record within stipulated time, as initially LRs of plaintiff No.1 were in mental shock on account of death of plaintiff No.1 and thereafter on account of lock-down, they were not in a position to attend the court within time. Therefore, they have requested for condonation of delay which has caused for bringing the LRs on record and have also requested for setting aside abatement.

2) While opposing the application, it is submitted by defendants that application is without merit and is filed just to prolong the hearing of the matter. It is also the submission of defendants that if at all application is allowed, heavy costs be imposed on the plaintiffs.

3) On perusal of record, it is evident that the cause of action survives. Similarly, both the parties are contesting the litigation since 2010. In such circumstances, if plaintiffs are not permitted to bring the LRs on record of the deceased party, that would cause prejudice to them. On the contrary, no such prejudice would be caused to

defendants, as they would get sufficient opportunity to contest the proceeding. So far as aspect of delay is concerned, same can be compensated by imposing necessary costs. Hence, following order.

ORDER

- 1) All the above applications are allowed as prayed, subject to costs of Rs.1000/- to be paid to defendants within one month from today.
- 2) If plaintiffs comply the above order within specified time, then the proposed LRs be brought on record.
- 3) Similarly, after compliance as above, plaintiffs shall file on record copy of amended plaint.

(S. S. Jahagirdar)

Date : 19-03-2021

Civil Judge, Senior Division, Niphad.