

MHNS13003842011



Regular Civil Suit No. 101/2011
Mohanlal V/s Shobhachand

ORDER BELOW EXHIBIT NO.104

By this application plaintiffs have praying for delay condonation and for setting aside abatement against late defendant no.4 **Hirabai Kantilal Kankariya**. Application is objected by defendants.

2. Perused the application and say filed thereon. Heard both the sides and considered their submissions. It is contended that, defendant no.4 is died on 04/12/2018. Delay of 06 years 11 months caused for bringing his LR's on record. Hence, suit is abated against deceased defendant no.4. Further, it is contended that, plaintiff was not aware about his death. Delay is not intentional. Hence, this application.

3. Present application is opposed by defendants. They have denied all the contentions of the applications. Ld. advocate for defendants submitted that, reason for delay mentioned in application is not satisfactory. Further he submitted that, on 11/07/2019 plaintiffs have applied for the same reason with same content and prayer vide Exh.69. Order passed below Exh.69 is in force till today. However, this application with same content and prayer without complying order passed below Exh.69 is moved only to delay the matter. Hence, they prayed to reject the application with cost of Rs.1,000/-.

4. Perused the record. Present application is moved along with application for bringing LR's of deceased defendant no.4 below Exh.106. On perusal of record it appears that, due to the demise of

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defendant no.4, plaintiffs have applied vide Exh.67 for setting aside abatement against deceased defendant no.4 and vide Exh.69 for deleting name of deceased defendant no.4 from title clause. In application below Exh.69 plaintiffs have prayed to bring on record Yogesh Kantilal Kankariya as the only legal heir of deceased defendant no.4.

5. Record shows that, the said order are not complied till today and plaintiffs by this application have again prayed for setting aside abatement against deceased defendant no.4 along with application below Exh.No.106 for bringing other two proposed legal heirs. However, plaintiff have nowhere stated or mentioned that they had previously applied for the same cause and prayer or other two proposed LR's of deceased defendant no.4 were in inadvertently omitted from being mentioned in the earlier claim.

6. It creates suspicion to believe the contentions of the plaintiff's application. So also, my Ld. Predecessor has already set aside abatement against deceased defendant no.4 vide common order below Exh.No.67 and 69 passed on 05/06/2023. Under such circumstances, there is no reason to believe the contentions of the application. Thus, application devoid of merits liable to be rejected. Hence, I pass following order:

ORDER

- 1) The application at Exh.104 is rejected.

Sd/-xxx

Date :- 06/01/2026

Place :- Pimpalgaon (B).

(V. W. Khendad)

2nd Jt.Civil Judicial Junior Division
Pimpalgaon (B)