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REGULAR CIVIL SUIT NO. 61/2017
Indubai V/s Vasant
MHNS130007072017



ORDER BELOW EXHIBIT NO.53

In a suit for partition and perpetual injunction, the present application is filed by the plaintiff for delay condonation and for setting aside abatement against late defendant no1 **Vasant Tukaram Kedare**. Called for say. Defendant no.1, 2 and 4 to 6 failed to file their say. Hence, proceeded without say. Defendant no.3 filed his say.

2. Perused the application and say filed thereon. Heard both the sides and considered their submissions. It is contended that, plaintiff was residing with her daughter at Belapur. Therefore, plaintiff was not aware about death of the defendant no.1. Some villagers of Shriwade informed about death of defendant no.1 to the daughter of the plaintiff and then she informed to the plaintiff, till then plaintiff was unaware of fact of the death. Thereafter, plaintiff searched for names and addresses of LR's of deceased. Due to which delay of 34 days is occurred and suit abated against the deceased defendant no.1. Delay is not intentional. Hence, this application.

3. Present application is opposed by defendant no.3. He has denied all the contentions of the applications. Ld. advocate for defendant no.3 submitted that, reason for delay mentioned in application is not satisfactory. Hence, prayed to reject the application.

4. Perused the record. Death certificate filed with the list at Exh.No.57 shows that, defendant no.1 Vasant Tukaram Kedare is died on 24/02/2025. This application is filed 03/07/2025. However,

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reasons mentioned for delay are satisfactory. Therefore, delay caused to bring legal heirs of the deceased seems unintentional. The nature of the suit shows that, no prejudiced would caused to the defendant if this application is allowed. Under such circumstances, considering the nature of the suit, it would be just and proper to allow this application in the interest of the justice. Accordingly, I pass the following order;

ORDER

1. Application at Exh.No.53 is allowed.
2. Abatement against late defendant no.1 **Vasant Tukaram Kedare** is hereby set aside.
3. Delay for bringing legal heirs of deceased defendant no.1 is hereby condoned.
4. Cost in main cause.

Sd/-xxx

Date :- 10/07/2025
Place :- Pimpalgaon (B).

(V. W. Khendad)
Civil Judicial Junior Division
Pimpalgaon (B)