

MHNS140006412010



ORDER BELOW EXHIBIT 59 R.C.S. NO.79/2010

Shri. Namdev Bharsat and others Vs. Shri. Punja Bharsat and others

(Passed on 11/09/2023)

The present application is filed by the plaintiff for condonation of delay for bringing legal representatives the defendant no. 15/2 and plaintiff no. 5

2. It is the case of the plaintiff that during the proceeding of the suit the plaintiff no. 5 died on 28/04/2021 and defendant no. 15/2 died on 29/08/2020 . The legal representatives of the said deceased defendant and plaintiff need to be taken on record. It was necessary to bring on record legal representatives of the said deceased defendant within limitation, However this defendant and plaintiff died during the Covid-19 period. Therefore, the delay of 10 to 20 months for the bringing legal representative of the deceased plaintiff no. 5 and delay of 28 to 30 months has been caused. The said delay is not deliberate. Hence, prayed for condone the delay caused for bringing legal representatives of the deceased defendant no. 15/2 and plaintiff no. 5.

3 The notice to legal representatives of the said deceased defendant and plaintiff has been issued, accordingly they failed to appeared and filed their say on record. Hence, application proceeded without their say.

4. Heard. It is apparent that the application is filed beyond the

period of 90 days from the date of death as well as from the date of knowledge of death. In view of the above discussion it is apparent that it is not the case of defendants that the right to sue does not survive and taking legal heirs of defendant no. 15/2 and plaintiff no. 5 on record will only aid in the proper adjudication of the claim. However, though the plaintiffs have not committed any negligence in making the application, a delay caused to proceedings of the case cannot be ignored. The said delay can be compensated by imposing the cost on the plaintiff. Hence, I pass following order.

ORDER

1. Application is allowed.
2. Delay in bringing legal representatives of defendant no. 15/2 and plaintiff no. 5 is hereby condoned subject to costs of Rs.500/-.
4. The cost of Rs. 500/- be deposited in the TLSA Dindori, District Nashik on or before the next date.

(Ashwini A.Pandit)

2nd Joint Civil Judge, Junior Division,
Dindori (MH03260)

Date :- 11/09/2023