

Common Order below Exh.69& Exh.71.

- 1) Plaintiffs moved an application for condonation of delay (Exh.69) in bringing Legal Representative of deceased defendant No.3 Tryambak Ganpat Shewale, and for permission to incorporate their names(Exh.71). Proposed LR Numbers 3(1) to 6 opposed the Application by filing Say below Exh.69.
- 2) Heard both sides.
- 3) Pending the litigation, defendant No.3 Tryambak Ganpat Shewale reported to dead on 25-08-2016. Plaintiffs approach their Learned Advocate on 6-4-2018, as the matter was fixed for issue of summons to the LR's of deceased defendant No.1. As soon as it is informed, present Application moved on 3-7-2018. Plaintiffs were unable to file the Application within prescribed time limit. Thus, there is delay. Hence, prayed for relief.
- 4) Learned Advocate for proposed LRs opposed the Application on the ground that, plaintiff is reluctant in proceeding with the matter. Suit is for partition and separate possession. Plaintiff and defendants are brothers. Plaintiffs are bound to have knowledge about the death of deceased defendant No.3. In spite of this, plaintiffs have deliberately caused delay in proceeding with the matter. Hence, prayed for rejecting the Application with costs.
- 5) Persued the Application and Say. I have gone

through the death certificate of defendant No.3.

6) Admittedly, it appears from the record that, defendant No.3 died on 25-08-2016. The contention of plaintiff regarding his illness, is not supported by documentary proof. The conduct of plaintiff regarding failure to attend the matter contributes delay. Though opportunity of hearing is necessary but the delay so caused cannot be ignored. It is settled principle that, ignorance of law is no excuse. Thus, for the delay so caused, plaintiffs shall pay the costs.

7) In the result following order is passed.

ORDER

- 1) Applications (Exh.69 & Exh.71) allowed with costs of Rs.1000/- (Rupees One Thousand only) be paid to proposed LR Nos.3(1) to 3(6) of deceased defendant No.3.
- 2) Delay stands condoned.
- 3) Abatement stands set-aside.
- 4) Plaintiffs shall incorporate the names of proposed LR Nos.3(1) to 3(6) of deceased defendant No.3 in title clause of plaint.
- 5) Plaintiffs shall supply copy of amended plaint on record and shall supply the same to defendants.

Date : 04/02/2019.
Nandgaon(Dist-Nashik)

(Smt. P.R. Dandekar)
Civil Judge J.D.,Nandgaon.