



**COMMON ORDER BELOW EXH.42 AND 44**

The present applications are moved by the plaintiffs for setting aside abatement against defendant No.8 and for delay condonation in taking legal representatives of her on record.

**02** I have perused the applications and heard Ld. Advocate for plaintiffs. He submitted that the knowledge of death of defendant No.8 is gained by him as per summons report vide Exh.38 issued to the deceased Venubai Santu Ghare. However, it is not possible for plaintiffs to add legal representatives of defendant No.8 on record within stipulated time due to unavailability of information. Hence, he prayed for setting aside abatement against defendant No. 8 and delay condonation in taking legal representatives of her on record.

**03** The defendants, despite several opportunities are failed to file their say on present applications and hence the application proceeded without their say vide order dated 23/12/2022.

**04** It appears from the record that the present suit is filed for partition, possession, declaration, perpetual injunction and for mesne profit. Since the suit is filed for partition, sufficient opportunities are required to be given to both the parties for defending their claims as interests of both parties are involved in the subject matter of suit. The legal representatives of deceased defendant No.8 are required to be added as parties for effective adjudication of matter in dispute. Though there is considerable delay in moving present applications, addition of legal representatives of deceased defendant No.8 will

facilitate effective adjudication of subject matter in the suit. Hence, it is just and proper to set aside abatement against defendant No. 8 and to condone the delay in taking legal representatives of defendant No. 8 on record in the interest of justice. Accordingly, I pass following order :

**ORDER**

Applications at Exh.42 and Exh.44 are allowed in the interest of justice.

Date: 17/02/2023

( S. G. Kuvalekar )  
Jt. Civil Judge, Jr. Division  
Igatpuri.