

MHOS080005252022 	R.C.S. No. 215/2022 Shrimant ..v/s.. Jagdish
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ORDER BELOW EXHIBIT-20

(Passed on this 14th of January, 2025)

This is an application filed by the plaintiff to condone the delay to bring legal representatives of the deceased defendant No.1 Jagdish Sharnappa Havale. It is the case of the plaintiff that Jagdish Sharnappa Havale died on 22-03-2024 and he ought to have file the present application before 90 days. However, due to illness of his mother and unavoidable circumstances he could not file this application within limitation. Hence, the plaintiff prayed to allow the application.

2. The Ld. Advocate of defendant No. 1 has filed say on the back leaf of the application and contended that present application is filed at belated stage, therefore, it may be rejected.

3. Following points arise for determination and my findings thereon and reasons thereof are as follows:

Sr. NO.	POINTS	FINDINGS
1	Whether the plaintiff is entitled to condone the delay in bringing the legal representatives of deceased defendant No. 1 Jagdish Sharnappa Havale on record ?	Yes
2	What order ?	Application is allowed

REASONS**AS TO POINT NO. 1 AND 2 -**

4. Perused the record and proceedings. Heard both sides. The defendant No. 1 is reported to have died on 22-03-2024. The present application is filed on 04-07-2024 i.e. which is beyond the period of 90 days from the death of the defendant No. 1. It is also necessary to note that the plaintiff has not filed a separate application to set aside the abatement. However, a simple prayer for condoning the delay in bringing the legal representatives on record would without specifically praying for setting aside of an abatement may in substance be construed as a prayer for setting aside abatement.

5. It is the case of the plaintiff that due to illness of his mother and unavoidable circumstances, he failed to make present application within stipulated time. The aforesaid reasons mentioned as to the delay is justified as the delay is unintentional. The present application is also supported by the affidavit of the plaintiff. It would also be necessary to note that the rights of both the parties are at stake in the present suit. Hence, if the present application is rejected the plaintiff would suffer irreparable loss and it may even lead to multiplicity of proceedings. Hence, it would be just and proper to hold that the plaintiff has shown sufficient cause to condone the said delay. Considering the delay, it would be just and proper to impose costs. Hence, I pass following order:

ORDER

1. The application is allowed.
2. The delay caused to file the application to bring the legal representatives of the deceased defendant No. 1 namely, Jagdish Sharnappa Havale is hereby condoned subject to costs of Rs.500/-.
3. The costs shall be deposited in the Court.

Date: 14-01-2025.

(Shyam S. Kalaskar)
Civil Judge, J.D., Lohara.

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment are same word to word, as per the original Judgment.

Name of the Stenographer	: R.M. Kokare
Court Name	: Shri. S.S. Kalaskar, CJJD Lohara.
Date	: 14-01-2025
Judgment signed by the	
Presiding Officer on	: 14-01-2025
Judgment uploaded on	: 14-01-2025