

ORDER BELOW EXH.143

Present application is filed for setting aside abatement under Order XXII Rule 4 of Code of Civil Procedure, 1908 and allow to bring legal representative of deceased defendant No.2 on record.

02. Heard Lrd. advocate for plaintiff. He has submitted that the defendant No.2 Bhaurao Chavan died on 11.08.2021. There was a lock down declared by the Government due to the pandemic situation prevailing over the country hence, plaintiff has no knowledge about the death of defendant No.2. Hence, he could not apply for bringing the legal heirs on record. Plaintiff has interest in the suit property and it is necessary to decide the suit on merit. Hence, the learned advocate for plaintiff prayed for setting aside the abatement order passed against defendant No.2.

03. Legal heirs of the defendant No.2 contested the application by filing say at **Exh.152** and contended that, the deceased was permanently resident of village Ieet, Tal. Bhoom. The plaintiff is also the resident of same village. Therefore, it could not be acceptable that plaintiff is not aware about the death of def. No.2. The pursis of in respect of death of defendant No.2 also filed on record therefore, the reasons given by plaintiff is not acceptable.

04. Heard both sides perused record. The suit is more

than 30 years old. The record shows that plaintiff and defendant are resident of same village further the pursis in respect of death of defendant No.2 is already filed on record. It appears that it is negligence on the part of plaintiff in proceeding the suit. The reason given by plaintiff is not sufficient. The present suit is filed for the relief of possession of the suit land. Therefore, considering the nature of the suit it would be just to decide the case on merit. Hence, I find it fit grant an opportunity to the plaintiff to bring Lr's on record by setting aside abatement order. However, taking into account negligence and delay on the part of the plaintiff I find it fit to impose heavy cost of Rs.1,000/- be paid to the defendant. Hence, the following order is passed.

- ORDER -

1. The application is allowed subject to cost of Rs.1,000/-.
2. Abatement against defendant No.2 is hereby set aside.

Place : Bhoom.
Date : 20.07.2023

(**Smt. S.J.Patil**)
Jt. Civil Judge Junior Division,
Bhoom

R.C.S.No.184 /1983
Vilas & Dhondiba
CNR No.MHOS130000011983

CERTIFICATE

I affirm that the contents of this P D F file judgment / order are same word to word as per the original judgment /order.

Name of Stenographer	:	N. V. Koli Stenographer Grade-3
Name of Court	:	Jt. Civil Court, Junior Division, Bhoom, Tal. Bhoom, Dist. Osmanabad
Order date	:	20.07.2023
Order signed by the Presiding Officer on	:	20.07.2023
Order uploaded on	:	26.07.2023