



R.C.S.No. 266/2013
Murlidhar/Gorakh

Order Below Exh.92

Plaintiffs no.1 and 2 have moved application for setting aside abatement order passed against deceased defendant no.5 Machindra Sahebrao Gatkal. Defendants have filed their say below same exhibit and strongly objected the application of applicants.

2. By way of this application applicants have submitted that the defendant no.5 namely Machindra Gatkal is died on 18.12.2018. Suit is abated against plaintiff Machindra because applicants not proceeded against him within time because applicants have not received heir-ship certificate. Due to that applicants could not moved application within time. If application is rejected then applicants would suffer irreparable loss. The application is moved along with affidavit. Applicants lastly prayed to allow the application.

3. The defendants objected the application on the ground of delay. The plaintiffs have intentionally not filed application within time. If court come to the conclusion to allow this application then heavy cost may kindly be imposed.

4. I have heard learned advocate for respective parties at considerable length.

5. On perusal of record it appeared that suit is instituted for partition and declaration. Applicants are applied for setting aside abatement. It reveals from the affidavit of plaintiff no.1 below Exh.91 that the defendant no.5 died on 18.12.2018. It appears that applicants are interested in proceeding of present suit because they filed application for setting aside abatement. Admittedly, that there is delay

in filing this application it does not mean the application is liable to be rejected. It is seen that the interest of parties involved in immovable property. No purpose would be served by rejecting the present application because reason given by the applicants are satisfactory in nature for setting aside abatement. Hence, I proceed to pass following order-

O R D E R

Application is allowed subject to costs of
Rs.100/-(Rs.One hundred only) to defendants.

Date : 14.03.2022

(K. K. Khomane)
Jt.Civil Judge,J.D. Bhoom.

C E R T I F I C A T E

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

Name of Stenographer	:-	M.K.Shinde
Court	:-	Jt.C.J.J.D., Bhoom, Dist. Osmanabad.
Date	:-	14.03.2022
Order signed by the Presiding officer on	:-	14.03.2022
Order uploaded on	:-	15.03.2022