

MHPU090012502012



RCS No. 398/2012

( Rangnath )

Vs.

( Baban &amp; Ors. )

**ORDER PASSED BELOW EXH. NO. 142**(Passed on 18<sup>th</sup> December 2023)

Application has been moved for setting aside abatement on the ground that, the delay so occurred as the defendant namely Suresh Sadhu Kashid-defendant no. 5 is died on 11/01/2022 and the defendant no. 8 Sadashiv Bapu @ Babu Kashid is died on 09/07/2020 as well as there was Covid-19 pandemic. Further by the order of Hon'ble Supreme Court functioning of the court was not in regular mode and thereby application for bringing LR's of said deceased defendants could not be moved before the court. Further defendant no. 13 namely Sungadabai Laxman Kashid is also died on 21/07/2012 and her LR's are already on record. Said delay is unintentional and for the interest of justice LR's of the said deceased defendants requires to be brought on record by setting aside abatement of suit else plaintiff have to suffer a lot.

**02]** The defendant nos. 9, 10 and 11 by filing their say on backleaf of said application contended that delay explanation is not given by the applicant and costs of Rs. 5,000/- be imposed and awarded to them.

**03]** I have heard Ld. advocate for the plaintiffs and Ld. advocate for the defendants. They both argued as per submissions made in application and say, respectively. On perusal of record, it is seen that, the present suit is filed for partition relief. Further it is also seen that the plaintiffs and defendants are related to each other and plaintiffs claiming partition of ancestral property and its possession

situated at Pimpri-Chinchwad. In the application it has already mentioned by the plaintiffs that LR's of the deceased defendant namely Sungadabai are already on record and thereby no suit abate against her LR's. But from array of defendants, the name said defendant requires to be deleted as party to the suit. Further as LR's of deceased defendant Suresh and Sadashiv are not on record and the suit is for partition and to conclusively determine suit between the said parties all LR's needs to be on record. Further the reason shown i.e. due to Covid-19 pandemic the application could not be moved is sufficient ground to allow the present application. Hence, for those reasons and for interest of justice I proceed to pass the following order:

**ORDER**

Application is allowed and abatement of suit stands set aside.

Pimpri.  
Dated:-18/12/2023.

( M. G. More)  
3<sup>rd</sup> Jt.C.J.J.D., Pimpri, Pune.

**CERTIFICATE**

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

Name of the Stenographer	:-	Smt. P. D. Kadam [Steno III]
Name of the Court	:-	M.G. More 3 <sup>rd</sup> Jt. J.M.F.C., Pimpri Pune.
Date	:-	18.12.2023
Order signed by the Presiding Officer on	:-	18.12.2023
Order uploaded on	:-	18.12.2023