

**COMMON ORDER BELOW EXHS.107, 109 & 111.**

These applications are filed by legal representatives of deceased plaintiff no.1 for condonation of delay, setting-aside the abatement order and for bringing the legal heirs of plaintiff no.1 namely, Sopan Tukaram Kamathe who died on 25.03.2024. The heirs ought to have been taken on record within time. But, due to non-availability of death certificate of deceased plaintiff no.1, delay of 6 months and 11 days caused to bring the legal heirs of deceased on record. Therefore, the suit came to be abated against plaintiff no.1. The right to sue survives against legal heirs of deceased plaintiff no.1. If applications are not allowed, they would suffer irreparable loss. Hence, prayed to allow the applications.

**2]** Defendant nos.1 and 3 by filing their say resisted the applications. They submitted that, the reason assigned in respect of delay caused is not true and proper. The applications are not in proper form. The present applications deliberately not filed within time in order to prolong the hearing of the matter. Lastly, they prayed for rejection of the applications by imposing cost.

**3]** Perused, heard both sides. It appears that, the suit is for partition and perpetual injunction. The death extract filed at Exh.106/2 and 106/1 shows that, plaintiff no.1 reported to be died on 25.03.2024 and his son namely, Sunil died on 09.11.2020 respectively. This shows that the son of deceased plaintiff no.1

namely, Sunil died prior to his death. However, present applications nowhere shows that son of Sopan namely, Sunil also been died. It appears that Sunil died prior to Sopan. Therefore, sons, daughters and widow of Sunil are come within the purview of heirs of deceased plaintiff no.1 Sopan. There is delay caused to bring the legal heirs of the deceased plaintiff no.1 on record. Considering the nature of dispute right to sue survives against the heirs of deceased plaintiff no.1. The heirs of deceased plaintiff no.1 are required to be brought on record. Otherwise the dispute between the parties cannot be resolved conclusively on merit. On the other hand, no prejudice would be caused to the other side. Hence, to avoid multiplicity of proceedings and to elucidate the controversy between the parties once for all, the applications need to be allowed. Hence, I pass following order :

**ORDER**

Applications are allowed subject to cost of Rs.600/-. Plaintiffs to comply forthwith and file amended copy of plaint on or before next date.

Place : Saswad.  
Date : 05/07/2025.

**[ Tukaram P. Mote ]**  
Jt. Civil Judge Junior Division,  
Saswad, Dist. Pune.

**CERTIFICATE**

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

Name of Stenographer	:: Santosh K. Panchal, Stenographer (Grade - III),
Name of the Court	:: 05.07.2025
Date of Order	:: 05.07.2025
Order signed by PO. on	:: 05.07.2025
Order uploaded on	:: 05.07.2025