

CNR No.MHPU130017422022	Reg. Civil Suit No.382 of 2022
	Anusaya Narayan Jagdale & Ors. Versus Vatsalabai Kumbharkar & Ors.

COMMON ORDER BELOW EXH.60 AND 62.
(Date : 30.07.2026)

1. The present applications have been preferred by the plaintiffs seeking condonation of the delay of 32 days in filing an application for setting aside the order whereby the suit stood abated against plaintiff no.1, deceased Anusaya Narayan Jagdale.
2. It is averred in the application that plaintiff no.1, Anusaya Narayan Jagdale, expired on 23.07.2025. The plaintiffs are illiterate persons residing in a rural area and, due to their lack of education and awareness, they could not furnish the particulars of the legal representatives of the deceased plaintiff no.1 to their advocate within the prescribed period. Consequently, there occurred a delay of 32 days in filing the application for setting aside the order of abatement and for bringing the legal representatives on record. It is further contended that the delay is bona fide, unintentional, and not deliberate. The plaintiffs have, therefore, prayed that the delay be condoned, the order of abatement be set aside, so that the suit may be decided on its merits.
3. The defendants have opposed the application by filing their reply. It is contended that the reasons assigned by the plaintiffs do not constitute sufficient cause within the meaning of law. According to the defendants, the plaintiffs have

deliberately delayed the proceedings without any justifiable reason and have filed the present application only with a view to prolong the litigation and cause inconvenience to the defendants. On these grounds, the defendants have prayed for rejection of the application.

4. Perused the application, reply, the documents placed on record, and the submissions advanced by the learned counsel appearing for both sides. It is an admitted position that plaintiff no.1, Anusaya Narayan Jagdale, expired on 23.07.2025. Upon her death, the surviving plaintiffs were required to bring her legal representatives on record within the period prescribed under Order XXII Rule 3 of the Code of Civil Procedure. Admittedly, no such application was filed within the prescribed period and, consequently, the suit stood abated against the deceased plaintiff no.1.

5. The record further discloses that there is a delay of 32 days in filing the present application seeking to set aside the order of abatement. The explanation offered by the plaintiffs is that they are illiterate persons and, owing to their lack of education and awareness, they could not communicate the particulars of the legal representatives of the deceased plaintiff no.1 to their advocate within the prescribed period. While considering an application for condonation of delay, the Court is expected to adopt a justice-oriented approach rather than a technical one. The law of limitation is intended to ensure diligence in prosecuting proceedings; however, it is equally well settled that procedural rules are meant to advance the cause of

justice and not to defeat it. Unless the delay appears to be deliberate, mala fide, or attributable to gross negligence, the Court should ordinarily adopt a liberal approach where sufficient cause has been shown.

6. In the present case, the delay is only of 32 days. Nothing has been placed on record to indicate that the delay was deliberate, intentional, or actuated by mala fides. The explanation offered by the plaintiffs appears to be plausible and bona fide. At the same time, the defendants cannot be deprived of compensation for the inconvenience caused due to the delayed filing of the application. In the opinion of this Court, the ends of justice would be adequately served by condoning the delay subject to payment of reasonable costs. If the delay is not condoned, the plaintiffs would be deprived of an opportunity to prosecute the suit on merits, whereas condonation of the delay, upon payment of costs, would not cause any irreparable prejudice to the defendants. It is a settled principle that, as far as possible, disputes should be adjudicated on their merits rather than on technical grounds. Accordingly, this Court is satisfied that the plaintiffs have shown sufficient cause for condonation of the delay of 32 days. However, the delay deserves to be condoned subject to payment of costs to the defendants. Hence, in light of above discussion, following order will proper :

ORDER

- i. The applications (Exh.60 & 62) are hereby allowed subject to payment of costs of Rs.700 (Rupees Seven Hundred only) payable by plaintiffs to the defendants.

- ii. The delay of 32 (Thirty-Two) days in filing the application for setting aside the order of abatement against deceased plaintiff no.1, Anusaya Narayan Jagdale, is hereby condoned.
- iii. Upon payment of the aforesaid costs, the order whereby the suit stood abated against deceased plaintiff no.1, Anusaya Narayan Jagdale, is hereby set aside.

Place : Saswad.
Date : 30/07/2026

[Satish G. Shinde]
Jt. Civil Judge Junior Division,
Saswad, Dist. Pune.

C E R T I F I C A T E

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

Name of the Court	:: Shri. Satish G. Shinde, Jt. C.J.J.D. & J.M.F.C., Saswad, Dist. Pune
Name of Stenographer	:: Santosh K. Panchal, Stenographer (Grade - III),
Date of Order	:: 30.07.2026
Order signed by P.O. on	:: 30.07.2026
Order uploaded on	:: 30.07.2026