

**ORDER BELOW EXH. No.37 IN R.C.S. No.192/2022**

[Suresh Korhale Vs. Bapu Korhale]

(Passed on 04th September, 2024)

Plaintiff has filed this application to condone delay arose in setting aside the abatement order for defendant no.09. Application is supported by Affidavit. Ld. Advocate of plaintiff has submitted that defendant no.09, Sahebrao Khandu Gawali died on 17.02.2023. But his legal heirs could not be brought on record within limitation. Therefore, in order to decide this suit on merit, delay arose in setting aside abatement order may be condoned and abatement be set aside.

02. On the other hand, defendants have filed say and submitted that the application is false, frivolous and delay is caused intentionally. Hence, application be rejected or be allowed subject to costs.

03. Heard both sides at length. Perused the record in detail. The suit is for permanent injunction. Without all the legal heirs on record suit cannot be decided on merits. Further, rejection of this application will lead to multiplicity of the proceeding and frustration of suit. In order to decide, this suit on merit, and to avoid multiplicity of proceedings, as right to sue and be sued survives to the existing legal heirs of deceased defendant no.09, so in the interest of justice, delay is condoned subject to costs of Rs.500/- to be paid to defendants. Hence, I proceed to pass following order :-

ORDER

Application is allowed subject to costs of Rs.500/-
(Rupees Five Hundred) to be paid to defendants.

Daund.
Date :- 04.09.2024.

[Smt. S. A. Virani]
Jt. C.J.J.D., Daund, Dist. Pune.

CERTIFICATE

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

Name of Steno	:-	P. D. Jagatap.
Name of the Court	:-	Smt. S. A. Virani, Jt. C.J.J.D., Daund, Dist. Pune.
Order date	:-	04.09.2024.
Order signed by the Presiding Officer on	:-	04.09.2024.
Order uploaded on	:-	04.09.2024.