

MHPU180020142015



ORDER BELOW EXHIBIT No.152
(Shantilal Avhad Vs. Manohar Avhad)

1. By filing present application the plaintiffs are seeking permission to bring LRs of the deceased defendant No.78 on record of the suit as well as to condone delay and set aside deemed abatement of the suit. Defendant Nos.1, 6 & 23 by filing say overleaf of the application have taken strong objection to the present application. Other defendants failed to submit say.
2. Perused the application and affidavit in support of it. Perused the say of defendant Nos.1, 6 & 23 and documents on record.
3. Heard Mr.S.G.Nagarkar, learned advocate for the plaintiffs and Mr.R.D.Ambodhare, learned advocate for defendant Nos.1, 6 & 23. They have submitted their argument as per the application and say respectively. Other defendants and their learned advocates are absent.
4. Mr.S.G.Nagarkar, learned advocate for the plaintiffs submitted that present suit is filed by the plaintiffs for fixation of boundaries, partition, removal of encroachment and permanent injunction against the defendants. However, defendant No.78 is died on 19/06/2018 during the pendency of present suit but defendant No.78 died at Shri Chhatrapati Shivaji Maharaj Multi-Speciality Hospital at Solapur and he has also not submitted any written statement. According to him, defendant No.78 died at Solapur due to which the plaintiffs could not get exact / proper information in respect of his demise and due to which the plaintiffs could not get death certificate of the deceased defendant No.78 within time and due to which the plaintiffs could not bring his legal representatives on record of the suit within time. According to him, the said delay is not intentional and deliberate. According to him, the suit is for fixation of boundaries, partition, removal of encroachment and permanent injunction and therefore, it is necessary to bring legal representatives of the deceased defendant No.78 on record of the suit for deciding present suit on merit. Hence, he prayed for permission to bring LRs of the deceased defendant No.78 on record by condoning the aforesaid delay and setting aside deemed abatement of the suit.
5. On the other hand, by filing say overleaf of the application Mr.R.D.Ambodhare, learned advocate for defendant Nos.1, 6 & 23 submitted that the plaintiff has not filed present application within time and reason mentioned in the application is not sufficient and satisfactory for condonation of delay. He further submitted that the plaintiffs and the deceased defendant No.78

are resident of the same village and therefore, the plaintiffs have every information about his demise. Hence, he prayed to reject the application.

6. Perusal of the application and supportive affidavit, it appears that the deceased defendant No.78 is died on 19/07/2018 and present application has been filed by the plaintiffs on 26/03/2025. There is near about 6 years 8 months delay for filing present application. However, considering the reasons in the application present application is found bonafide and sufficient in order to condone delay, to set aside deemed abatement. Present suit is for fixation of boundaries, partition, removal of encroachment and permanent injunction in respect of immovable property. The deceased defendant No.78 is survived by legal heirs as mentioned in the present application. Therefore, right to sue survives in legal representatives of the deceased defendant No.78. If permission is granted to bring LR's of the deceased defendant No.78 on record, no prejudice is caused to other side. In such circumstances, considering the nature of the suit, present application deserves to be allowed. Hence, I proceed to pass the following order :-

:- ORDER :-

1. Application (Exh.152) is hereby allowed subject to cost of Rs.200/- each payable to defendant Nos.1, 6 & 23.
2. Delay is hereby condoned and deemed abatement of the suit against the deceased defendant No.78 is hereby set aside.
3. Permission is granted to the plaintiffs to bring LR's of deceased defendant No.78 on record of the suit within stipulated period from the date of this order.
4. The plaintiffs are directed to file amended copy of the plaint as well as supportive affidavit on record within stipulated period from the date of this order.

Date : 10/06/2026.

(G.S.Badgujar)
3rd Jt. Civil Judge Jr. Dv., Daund.

CERTIFICATE

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

Name of Stenographer	Shri. S. B. Khule (L.G.)
Name of Court	3 rd Jt. CJJD & JMFC, Daund.
Date of Dictation	10/06/2026.
Judgment/Order signed by the PO on	10/06/2026.
Judgment /order uploaded on	10/06/2026.