

ORDER

1. Perused application and say. Heard both sides. Applicant prayed for condoning the delay caused for setting aside abatement order. Defendants file their say on overleaf of the application and prayed for rejection of application or grant on heavy costs.

2. Applicant submitted that defendant no.2 Baban Namdev Yadav has passed away at Pune. Plaintiff got information about death of defendant no. 2 recently. He did not get information of death of defendant no. 2 within time and meanwhile plaintiff was ill therefore, he could not collect death certificate of defendant no. 2. Therefore, it is necessary to take the LR's of the deceased defendant no. 2 on record. Accordingly the separate application is given. But while taking the LR's of the deceased defendant no. 2 on record, it is necessary to condoning the delay caused for setting aside abatement order. Plaintiff has filed the present suit for permanent injunction, partition and declaration. It seems that the LR's of the deceased defendant no.2 are necessary party to the suit. Hence, it seems necessary to hear them. Hence, considering the reason mentioned in the application. It deserves to be allowed. Hence, I pass the following order:

ORDER

1. Application is allowed subject to costs of Rs.300/- payable by plaintiff to defendants collectively.
2. Delay caused for setting aside abatement order about defendant no.2 on record is hereby condoned upon payment of costs.
3. Applicant to take note accordingly.

Sd/-

(A.G.Kulkarni)
4th Jt. C.J.J.D, Daund
Tq.Daund, Dist. Pune

Date :21/03/2024

ORDER

1. Perused application and say. Heard applicant. Applicant prayed for setting aside the abatement order. Defendants file their say on overleaf of the application and prayed for rejection of application.

2. It is the contention of the applicant that, defendant no.2 Baban Namdev Yadav has passed away at Pune. Plaintiff got information about death of defendant no. 2 recently. He did not get information of death of defendant no. 2 within time and meanwhile plaintiff was ill therefore, he could not collect death certificate of defendant no. 2. Therefore, it is necessary to take the LR's of the deceased defendant no.2 on record. Accordingly the separate application is given. But while taking the LR's of the deceased defendant no.2 on record, it is necessary to set-aside the deemed abatement order. Plaintiff has filed the present suit for permanent injunction, partition and declaration. It seems that the LR's of the deceased defendant no.2 are necessary party to the suit. Hence, it seems necessary to hear them. Hence, considering the reason mentioned in the application. It deserves to be allowed. Hence, I pass the following order:

ORDER

1. Application is allowed subject to costs of Rs. 200/- payable by plaintiff to the defendants collectively.
2. Abatement of suit order about defendant no. 2 is hereby set aside.
3. Applicant to take note accordingly.

Sd/-

Date :21/03/2024

(A.G.Kulkarni)
4th Jt. Civil Judge Jr. Division, Daund
Tq.Daund, Dist. Pune

ORDER

1. Perused application and say. Heard both sides. Applicant prayed for condoning the delay caused for taking LR's of defendant no.2 Baban Namdev Yadav on record. Defendant filed his say on overleaf of the application and prayed for rejection of the order.

2. Applicant submitted that defendant no.2 Baban Namdev Yadav has passed away at Pune, however, the plaintiff was unable to obtain name of LR's of defendant no.2 so delay is caused in bringing his LR's on record. Plaintiff got information about death of defendant no. 2 recently. He did not get information of death of defendant no. 2 within time and meanwhile plaintiff was ill therefore, he could not collect death certificate of defendant no. 2. Therefore, it is necessary to give them chance to taking LR's on record and condoning the delay caused. Hence, prayed for allowing the application.

3. The present suit is for permanent injunction, partition and declaration. It is necessary that, every suit to be decided on the merit. On perusal of the application and suit it seems that the important civil rights of the applicant is involved in the suit. Therefore, it seems necessary to give a chance to the applicant to taking LR's of deceased defendant no. 2 on record. Therefore, the application deserves to be allowed. Hence, considering the reasons stated in the application it needs to be allowed. Hence, the order:

ORDER

1. Application is allowed subject to costs of Rs 200/- payable by plaintiff to the defendants collectively.

2. Delay caused for bring legal heirs of defendant no.2 on record is hereby condoned.
3. Applicant to take note accordingly.

Date :21/03/2024

Sd/-
(A.G.Kulkarni)
4thJt. C.J.J.D, Daund
Tq.Daund, Dist. Pune

ORDER

Applicant has made the present application for seeking order for permission to bring legal heirs of deceased defendant no. 2 on the record. The order passed for abatement of suit against plaintiff has been set aside vide order below Exh.31. Hence, the present application. Defendant filed his say on overleaf of the application and prayed for passing of necessary order.

2. Perused the application and say. Heard both sides.

3. It is the contention of the applicant that, defendant no.2 Baban Namdev Yadav has passed away, however, the plaintiff was unable to obtain name of LR's of defendant no.2 so delay is caused in bringing his LR's on record. Defendant no.2 is survived by Sarika Dnyandev Sonawane (daughter), Satish Baban Yadav (son), Anita Popat Gaikwad (daughter). As the present suit is for permanent injunction, partition and declaration. Therefore, it is necessary to bring the LR's of deceased defendant no.2 on record.

4. Having considered the submissions made on behalf of both the parties and on perusal of record it appears that, defendant no.2 passed away leaving behind Sarika Dnyandev Sonawane (daughter), Satish Baban Yadav (son), Anita Popat Gaikwad (daughter). The delay caused in bring the LR's of deceased defendant no.2 has been condoned vide order below Exh.33. The order of abatement of suit against defendant no.2 has been set aside vide order below Exh.31. As the present suit is for permanent injunction, partition and declaration. Applicant submitted that, plaintiff got information about death of defendant no. 2 recently. He did not get information of death of defendant no. 2 within time and meanwhile plaintiff was ill therefore, he could not collect death certificate of defendant no. 2.. Therefore, it is necessary to bring the LR's of deceased defendant

no. 2 on the record they being necessary parties to the present suit. Hence, I proceed to pass the following order:

ORDER

1. Application Exh.35 is allowed.
2. The plaintiff is directed to bring the proposed LR's of deceased defendant no. 2 on record within 14 days from the date of this order or on next date.
3. The plaintiff is directed to file amended copy of plaint within 14 days or on next date and serve the same to the defendants.
4. Issue notice to the proposed legal heirs.
5. Parties to take note.

Place : Daund.
Date : 21/03/2024

Sd/-
(A.G.Kulkarni)
4thJt. C.J.J.D., Daund
Tq.-Daund, Dist.-Pune.