



Chintaman Zapaji Aauti

Vs.

Santosh Vitthal Aauti

COMMON ORDER BELOW EXH. NOS. 27, 28 AND 29

1. The applicant has filed these applications for setting aside the deemed order of abatement of application, condoning the delay and to bring legal representatives of the respondent Nos.1 and 2 on record.

2. Heard both sides. Considered their submissions.

3. The Ld. advocate for the applicant submitted that during the trial respondent No.1 namely Santosh Vitthal Awate died on 02/05/2021. After his death his wife Chhaya and sons Omkar and Siddesh are his only legal heirs. The respondent No.2 namely Vikram Vitthal Awate died on 26/09/2022. After his death his wife Varsha and sons Pranav and Soham are his only legal heirs. He also submitted that the applicant is illiterate and old aged he unable to obtain the death certificate of respondent Nos.1 and 2 within time. Therefore, he could not file application to bring their legal heirs on record. The delay was not intentional. Hence, prayed for setting aside the deemed order of abatement of application against respondent Nos.1 and 2. He also prayed for condoning the delay to bring their legal representatives on record.

4. The Ld. advocate for respondents has filed his say and submitted that the applicant has filed present application for restoration of Darkhast. There is no provision for amendment in the application. On 30/01/2023 the applicant has received the death certificate of respondent No.1. He has not filed the copy of death certificate of respondent No.2. The contents in the application are false and frivolous. The applicant is trying to delay the matter. Hence, he prayed to reject the application.

5. On perusal of the record, it appears that the main application is filed for restoration of darkhast. Applicant is illiterate and old aged. He submitted that due to delay in obtaining death certificate of respondent Nos.1 and 2 and therefore he could not file application to bring their legal heirs on record. He filed affidavit at Exh.33 contending that he has not received death certificate of respondent No.2 and assured that he will file the same. Mere unavailability of death certificate cannot be ground for rejection of application as respondents have not denied the death of respondent Nos.1 and 2. Hence, it is not desirable to keep application pending for obtaining death certificate.

6. I am of the opinion that it would be just and proper to adopt a justice-oriented approach. The ordinary litigant ought not to be denied an opportunity of having a application determined on merit unless they have by gross negligence, deliberate inaction or something akin to misconduct, disentitle themselves from seeking indulgence of court. Further, denying the applicant an opportunity of his applications being considered merely on ground of delay would be unjust.

7. In view of the above-discussed reasons, I am of the opinion that to decide the present application on merit it would be just and proper to set aside an abatement order. Simultaneously, condone the delay to file an application to bring the legal representative of the respondent Nos.1 and 2 on record. Hence, I pass following order.

O R D E R

- 1) Applications at Exh. Nos.27, 28 and 29 are allowed subject to cost of Rs.1000/- be paid to the respondents.
- 2) The delay in bringing the remaining legal heirs of the deceased respondent Nos.1 and 2 is condoned.

- 3) The legal heirs of respondent Nos.1 and 2 be taken on record as prayed in application at Exh.29 on payment of above-mentioned cost.
- 4) The applicant directed to carry out aforesaid amendment and file amended copy of main application on record within 14 days from the date of this order.
- 5) Parties to note.

Sd/-

Date : 06/02/2026
Ghodegaon,

(Sneha Sunil Pulujkar)
2nd Joint Civil Judge Junior Division,
Ghodegaon, Dist. Pune

C E R T I F I C A T E

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

Name of the Court : Smt. Sneha Sunil Pulujkar,
2nd Jt. C.J.J.D. and J.M.F.C., Ghodegaon,
Dist. Pune.

Name of the Steno : J. S. Kaite, Steno Grade - III.

Order date : 06/02/2026.

Order signed by P.O. on : 06/02/2026.

Order uploaded on : 06/02/2026.