

COMMON ORDER BELOW EXH.105, 107 AND 109 IN REG. C. S.
NO.81/2012.

These applications filed by plaintiffs to set aside automatic abate order, condonation of delay and to bring the L.Rs. of defendant No.9 namely Shivraj Harichandra Kale on record. It is contended by plaintiffs that, defendant No.9 Shivraj Harichandra Kale died on 21/08/2024. However, due to funeral rites they could not file application to bring the L.Rs. of defendant No.9 on record within prescribed period of 90 days. Therefore, they have prayed for condonation of delay, set aside automatic abate order and to bring L.Rs. of defendant No.9 on record.

2) Notice came to be issued to LR's of defendant No.9. LR's of defendant No.9 appeared and opposed these applications by filing their say. They have submitted that, the reason is not satisfactory. It is further submitted that, plaintiffs had knowledge about death of defendant No.9, even though they have not filed application within prescribed period. On these grounds they have prayed for rejection of applications and alternatively prayed for cost of Rs.3000/- if applications allowed.

3) Perused the applications and record. Heard both side.

4) As per contentions of the plaintiffs, defendant No.5 died on 24/08/2024

5) The present applications are not filed within prescribed period of 90 days. However, according to the plaintiffs, due to funeral rites they could not file application to bring the L.Rs. of defendant No.9 on record within prescribed period of 90 days. The present suit is filed for partition and separate possession in respect of immovable properties contending that the suit properties are ancestral properties. Therefore definitely the cause of action survived to LR's of defendant No.9.

Therefore, it appears that being L.Rs. of defendant No.9 they should be brought on record. The delay caused by plaintiffs can be compensated by imposing suitable cost. Hence, I come to the conclusion that the present applications deserved to be allowed. Hence, I proceed to pass the following order :

:- ORDER :-

- 1) Applications at Exh. 105, 107 and 109 are hereby allowed as prayed subject to cost of Rs.800/- to the defendants.
- 2) Plaintiffs are hereby permitted to bring L.Rs. of defendant No.9 on record.
- 3) Plaintiffs shall carry out amendment accordingly in the plaint and shall file amended plaint on record till next date.

Ghodegaon
Date :- 30/06/2025.

(Santosh L. Vaidya)
Civil Judge (J.D.),
Ghodegaon Dist. Pune.