



Shankar Dhondiba Borhade

Vs.

Vishnu Keru Borhade

COMMON ORDER BELOW EXH. NOS. 35, 37 AND 39

1. The plaintiff has filed these applications for setting aside the order of abatement of suit against defendant No.4, condoning the delay and to bring legal representatives of the defendant No.4 on record.
2. Heard both sides. Considered their submissions.
3. The Ld. advocate for the plaintiff submitted that during the trial defendant No.4 namely Ulhas Bhikaji Borhade died on 07/08/2020. After his death his son Shubham Ulhas Borhade is the only legal heir. The delay was not intentional. Hence, prayed for setting aside the deemed order of abatement of suit against defendant No.4. He also prayed for condoning the delay to bring legal representatives of defendant No.4 on record.
4. The Ld. advocate for defendants has filed his say and submitted that defendant No.4 died on 07/08/2020 and plaintiff received the death certificate in October 2020. On 01/11/2025 the plaintiff has filed the present application. The plaintiff has intentionally prolonging the matter to harass the defendants. Hence, he prayed to reject the application with costs of Rs.5,000/-.
5. On perusal of the record, it appears that the suit is filed for partition, declaration and permanent injunction. He filed copy of death certificate of defendant No.4 on record. The defendants have not denied the death of defendant No.4 Admittedly there is around 5 year 6 months delay in filing the application to bring legal heir of defendant No.4 on record.

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 suit 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 plaintiff an opportunity of his applications being consider 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 suit 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 defendant No.4 on record. Hence, I pass following order.

O R D E R

- 1) Applications at Exh. Nos.35, 37 and 39 are allowed subject to cost of Rs.2000/- be paid to the defendants.
- 2) The delay in bringing the remaining legal heirs of the deceased defendant No.4 is condoned and deemed abatement order is set aside.
- 3) The remaining legal heirs of defendant No.4 be taken on record as prayed in application at Exh.39 on payment of above-mentioned cost.
- 4) The plaintiffs are directed to carry out aforesaid amendment and file amended copy of plaint on record within 14 days from the date of this order.
- 5) Parties to note.

Sd/-

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

Date : 12/02/2026
Ghodegaon,

CERTIFICATE

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 : 12/02/2026.

Order signed by P.O. on : 12/02/2026.

Order uploaded on : 12/02/2026.