



Vinayak Laxman Bhaskar
Vs
Vasant Rambhau Urf
Ramchandra Bhaskar

ORDER BELOW EXH. NO. 34 AND 40

1. The applicants have filed. these applications for setting aside the deemed order of abatement of suit, condoning the delay and to bring legal representatives of the defendant No.3 on record.
2. Heard Ld. advocate for applicants at length. Despite giving sufficient opportunity defendants failed to file say to these applications. Hence, applications decided without their say but on merit.
3. The Ld. advocate for applicants submitted that the defendant No.3 namely Shankar Vishnu Bhaskar was died on 23/08/2022. After his death sons Talash Shankar Bhaskar, Ulhar Shankar Bhaskar, Kailas Shakar Bhaskar (Dead), Swapnil Kailas Bhaskar (Grand son), Pornima Kailas Bhaskar (Grand daughter) are the only legal heirs. Recently after searching the documents the applicants came to know about the present suit. Therefore, they could file application to bring them on record as legal heirs of defendant No.3 within limitation. He further submitted that there is delay in filing set aside abatement application. Applicants are the necessary party to decide the suit on merit. The delay was not intentional. Hence, prayed for condoning the delay for setting aside the deemed order of abatement of suit against defendant Nos.3. He also prayed to bring applicants as legal representatives of defendant Nos.3 on record.
4. On perusal of the record, it appears that the suit is filed for partition and permanent injunction. It also appears that the suit had abated owing to no formal application to bring a legal representative of the defendant No.3 preferred within the stipulated time. Recently applicants came to know

about the present suit. Therefore, they could file application to bring them on record as legal heirs of defendant No.3 within limitation.

5. 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.

6. Further, denying the plaintiff an opportunity of his applications being consider merely on ground of delay would be unjust. On other hand, considering the applications for bringing the legal heirs of defendant No.3 on record on merits would not tilt the scale against the defendants.

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.3 on record. Hence, I pass following order.

O R D E R

- 1) These applications at Exh. Nos.34 and 40 are allowed subject to cost of Rs.500/- be paid to the government.
- 2) The deemed order of abatement of the suit on account of the death of the deceased defendant No.3 is set aside.
- 3) The delay in bringing the legal heirs of the deceased defendant No.3 is condoned.

- 4) The legal representative of defendant No.3 be taken on record as prayed in application at Exh.34 on payment of above-mentioned cost.
- 5) The plaintiff is directed to carry out aforesaid amendment and file amended copy of plaint on record on or before next date.
- 6) Parties to note.

Sd/-

Date : 29/01/2025
Ghodegaon,

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

CERTIFICATE

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

Name of the Court : Smt. Sneha Sunil Pulunjkar,
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 : 29/01/2025

Order signed by P.O. on : 29/01/2025

Order uploaded on : 29/01/2025