

Reg. Civil Suit No. 67/2017

Devidas Rambhau Patil

VS

Rasik Devidas Patil

Order passed below Exh 16,18 & 20

(Passed on 29.06.2019)

1] Heard both the parties. The plaintiff has filed applications to condone delay in bringing the legal heirs of plaintiff No. 2 and to set aside abatement against her. In the application at Exh. 16 and Exh. 18, the plaintiff prayed to condone delay and for setting aside abatement order passed against the legal heirs of plaintiff No. 2. In the application at Exh 20, the plaintiff has prayed to add the names of legal heirs in the suit. The contention of the plaintiff is that the plaintiff no.2 has died on 09.08.2018. The suit is filed for partition of suit property. He further contended that, he has not received the death certificate of plaintiff no. 2 hence, he failed to bring the legal heirs of plaintiff no.2 on record within time. He prayed that application be allowed.

2] *Per contra* the defendant has filed say and submitted necessary order be passed.

3] On perusal of applications, the delay caused in filing the application for delay condonation and setting aside the order of abatement is not intentional. Also, for the proper and final adjudication of the controversy in the suit on merits, it is essential to bring the legal representatives of the plaintiff no.2 on record. Considering the grounds stated in the application, , it is expedient in the interest of justice to set aside the order of abatement by condoning the delay. Hence the order:

ORDER

- 1] The applications are allowed.
- 2] Delay is condoned in bring L.R's of plaintiff no.2.
- 3] Abatement against L.R's of plaintiff no.2 is set aside and the plaintiff is directed to add the legal representatives of the plaintiff no.2 as parties and carry out the necessary amendments till next date.

- 4] The plaintiff to file amended copy of the plaint on record and provide copies thereof to the defendants.
- 5] No order as to cost.

Pen

Date: 29.06.2019

(N.S.Kakade)
Jt. Civil Judge, Jr. Dvn., Pen