

:: Order passed below Exh.No.74 in R.C.S.No.14/2017 ::
(Bhagwan Bhoir & Ors Vs. Tarabai Valku Bhoir & Ors.)

The applicant has filed application at Exh.74 for setting aside abatement and condonation of delay caused for bringing L.R.'s on record. It is the contention of the applicant that, lack of knowledge of the procedural law, he could not file present application within time before the court.

2. Advocate for other side has filed say on back leaf of the Exh.74. It is contention of defendants that, defendant no.1 Tarabai Valku Bhoir died on 16/03/2022, advocate for plaintiff has filed application on 04/08/2022 at Exh.72. It means that, they could have take legal heirs of defendant no.1 on record within time but they failed to do so. Reasons mentioned on the application at Exh.74 are false and not tenable. Hence it is prayed that, heavy cost may imposed and application be rejected.

3. Perused the application say filed their on. Heard learned advocates for respective parties. This is suit for partition in order to decide the suit on merit opportunities given to the parties. Plaintiffs have filed the death certificate of defendant no.1 i.e. Tarabai Valku Bhoir, it appears from the said certificate that, the defendant no.1 was died on 16/03/2022. Plaintiffs ought to have bring legal heirs of defendant no.1 on record till 16/06/2022 but they failed to do so. I am aware about that, procedure laws are handmade of justice.

4. In case of perumen Bhagwathy Devaswam

Perianadu village V/s. Bhargavi Amm(Dead) by L.R.s' and others. It has been observed that;

“ considering the reasons for condonation of delay, the Courts are more liberal, The word 'sufficient cause' for not making the application within the period of limitation should be understood and applied in a reasonable, pragmatic, practical and liberal manner, depending upon facts and circumstances of the case, and the type of case. The word sufficient cause in Section 5 of limitation Act should receive liberal construction so as to advance substantial justice when the delay is not on account of any dilatory tactics, want of bonafidde, deliberate inaction or negligence on the part of the party.”

5. In view of above citation and second principle of law I am of opinion that, there is delay of 49 days for brining LR's of defendant no.1 on record. The reason stated in the application can be considered by adopting liberal approach in such cases. The said abatement order and delay condonation application deserves to be allowed by imposing appropriate costs. Hence I proceed to following order.

:: ORDER ::

1. The application at Exh.74 is allowed in the interest of justice.
- 2 The delay of near about 49 days caused for brining L.R's. of defendant no.1 is condoned on or before next dated.

Date: 04-08-2022

(Smt.S.R.Shinde)
Civil Judge Junior Division,
Karjat.