

Common Order passed bellow Exh. 13,15,17 in R.C.S.. No 169/2019.

The plaintiff has filed the suit of declaration and partition against the defendant. However on 29.08.2020 the defendant Shri Shankar Ramji Bhoir passed away hence the plaintiff moved an application to set aside the abatement of suit and to bring the legal heirs of the defendant on record by condoning the delay for same . Perused the record the plaintiff has filed the above said application on 06.09.2021 i.e. after 12 months of the death of the defendant. Considering the Affidavit along with application filed by the plaintiff .He had sufficient cause for not filing this application within limitation period . Hence,I pass following order -

Order

1. The abatement of the suit is hereby set aside.
2. The delay is condoned .
3. The plaintiff is allowed to bring the legal heirs of the defendant on the record within the 14 days of this order and produced amended copy thereof .

(P.S.Apte)

Date .16/11/2021

Jt J.M.F.C.Karjat Dist Raigad

farmer and he had kept the seized animals for production of milk and not for slaughtering. As the custody of animal is with applicants, he has already suffered huge loss and therefore he is not in a position to bear any maintenance charges. He has already preferred an appeal before the Hon'ble Bombay High Court, wherein he has all chances of getting the orders in his favor. He therefore finally prayed for dismissal of the present application.

heard learned advocates on behalf of respective parties. Perused the application, say and the entire record placed before me. Respondent no 2 has merely went on prolonging the disposal of the present application, on the ground that the matter is adjudicated before the Hon'ble Bombay High

Court. He however has not even paid the amount of cost of Rs. 1000/- imposed on him by the order dated 11/01/2021. There is no order of The Hon'ble Bombay High Court staying the present proceedings. Therefore there is no hurdle in disposing the present application. Applicants along with the present application have filed copy of the Maharashtra Animal Preservation Act 1976. Sec. 8(1)(b) of the said act run as under:-

Sec. 8.(1) For the purpose of this Act, the competent authority or any person authorized in writing in that behalf by the competent authority (hereinafter in this section referred to as "the authorized person") shall have power to enter and inspect any place where the competent authority or the authorized person has reason to believe that an offense under this Act has been, or is likely to be committed.

(3) Any Police Officer not below the rank of Sub-Inspector or any person authorized in this behalf by the state Government, may with a view to securing compliance of the provisions of Section 5A, 5B, 5C or 5D for satisfying himself that the provisions of the said sections have been complied with may,

(b) Seize or authorize the seizure of cow, bull or bullock in respect of which he suspects that any provision of sections 5A, 5B, 5C or 5D has been, is being or is about to be contravened, along with the vehicles in which such cow, bull or bullock are found are thereafter take or authorize the taking of all measures necessary for securing the production of such cow, bull or bullock and the vehicles so seized, in a court and for their safe custody pending such production.

Provided that pending trial, seized cow, bull or bullock shall be handed over to the nearest Gosadan, Goshala, Panjrapole, Hinsa Nivaran Sangh or such

other Animal Welfare Organizations willing to accept such custody and the accused shall be liable to pay for their maintenance for the period they remain in custody with any of the said institutions or organizations as per the orders of the court.

On plain reading of proviso to Sec. 8(1)(b) it can be seen that the act it self authorises custody of the seized animals to the institutions or trusts like applicants. It further provides for maintenance to be paid by the accused i.e. respondent no 2. Applicants along with their written notes of arguments have filed copy of letter dated 02/07/2019, issued by The Maharashtra Animal Welfare Board to the District Collectors, wherein it is made clear that daily maintenance charges for cow, bullock like animals is Rs. 200/-. By going through the relevant provisions, I am of the opinion that applicants are entitled for daily maintenance of Rs. 200/- per animal from respondent no 2 from the date of custody of these animals with applicants. Applicants are also claiming transportation charges of the Rs. 30,000/- however the record doesn't reveal any such expenses incurred. They have not filed any receipts etc. in that regard I am therefore of the opinion that they are not entitled for such expenses. Hence I pass the following order:-

::ORDER::

- 1) The application is partly allowed.
- 2) Respondent no 2 is directed maintenance charges of Rs. 200/- per day per animal to applicants from the date of their custody with them.
- 3) The amount of maintenance shall be paid to applicants within 03 days of this order.
- 4) Respondent no 1 & 2 shall execute a bond within 03 days as per rule 5(1) of The Prevention of Cruelty to Animals (care and maintenance of case property animals) rules 2017

5) The application stands disposed off.