

Order below Exh. 48

The plaintiff has filed the application for setting aside abatement order.

2. The defendant filed say overleaf of the application and contended that the reasons mentioned for setting aside the abatement order is not supported by any documents. Hence, he prayed to reject the application.

3. Defendant no. 1 Dashrath Nagu Nikam is reported to have died on 13.03.2017. The death certificate is filed on record. The application is supported by an affidavit. She is survived by one daughter. The suit is filed for specific performance of contract and injunction. Hence, the right to sue survives. However, the application is filed on 25.07.2017. Hence, the abatement is to be set aside. The reason mentioned in the application to set aside the abatement is not sufficient. However, in order to decide the case on merits, it is necessary to bring legal heir of deceased defendant no. 1 on record. Hence, the abatement is set aside subject to cost of Rs. 200/- to be paid by the plaintiff to legal aid.

ORDER

The application is allowed, subject to cost of Rs.
200/- to be paid by plaintiff to legal aid.

Khalapur,
Date : 02.02.2018

(S.M.Gade)
Jt. Civil Judge, J.D., Khalapur