

Order below Exh. 45

The plaintiff has filed the application for setting aside abatement order passed against plaintiff no. 5.

2 . Though sufficient opportunity given, defendant fail to file say. Hence no say Order was passed against them.

3. Plaintiff no. 5 is reported to have died on 30.01.2016. Photocopy of death certificate is filed on record. The application is supported by an affidavit. She is survived by husband, Two sons and one daughter. The suit is filed for declaration and injunction. Hence, the right to sue survives. However, the application is filed on 19.01.2019. Hence, the abatement is to be set aside. Though reason mentioned in the application to set aside the abatement is not justiciable, however, in order to decide the case on merits, it is necessary to bring legal heir of plaintiff no. 5 on record. Hence, I pass following Order -

ORDER

The application is allowed, subject to cost of Rs.
1,000/- to be paid by plaintiffs to legal aid.

Place :Khalapur,
Date : 15.06.2019

(Vishal S. Dhondage)
Jt. Civil Judge, J.D., Khalapur