

ORDER BELOW EXH. 47

The present application is filed by the plaintiff for condonation of delay in bringing the legal heirs on record of deceased plaintiff no. 5. Though sufficient opportunity given, defendant fail to file say. Hence no say Order was passed against them. Heard learned advocate for plaintiffs.

2. 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. The plaintiff had to bring the legal heirs of plaintiff no. 5 on record till 01.05.2016. The present application is filed on 19.01.2019. The statutory period to bring the legal heirs on record of the deceased is 90 days, which is already been lapsed. The reasons mentioned in the application for condonation of delay is that son of deceased defendant no. 5 is serving abroad. Due to which there was delay in filing this application. Hence, Plaintiffs prayed that the application be allowed.

3. Though reason mentioned in the application is not justiciable for delay condonation, but, the right to sue survives and in order to decide the case on merits, it is necessary to bring the legal heir on record. Thus, the application deserves to be allowed. In the result, I pass the following order.

ORDER

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

Place: Khalapur
Date: 15.06.2019

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