

MHRG110004702017



Common order below Exh. 40, 42 and 44 in R. C. S. No. 68/2017

By these applications, plaintiff prayed for setting aside abatement and condonation of delay and to carry out necessary amendment in the plaint under order XXII Rule 04 of Code of Civil Procedure.

2. Defendant filed say at 48, 49 and 50 and resisted the applications. It is submitted that, defendant No.1 was died on 17/07/2021. plaintiff is neighbour of deceased defendant No.1. therefore, plaintiff surely have an information about demise of defendant No.1. Reasons for delay caused is not mentioned properly. Inordinate delay has been caused. Hence, applications deserve to be reject.

3. Perused the relevant record. Heard both sides.

4. Plaintiff submitted that, defendant No.1 Ramesh Mahadev Todkar was died on 17/07/2021. To bring LR's of deceased defendant No.1 on record delay has been caused. Plaintiff submitted that, delay caused is not deliberate. Hence, prayed for setting aside abatement, delay condonation, to bring legal heirs of deceased defendant No.1 on record as defendants and to carry out necessary amendment in the plaint.

5. On perusal death certificate filed along with list of document at Exh.47 it shows that, defendant No.1 expired on 17/07/2021. After demise

of defendant No.1, applications are not filed within limitation. If delay is not condoned and abatement is not set aside it would caused harm to the plaintiffs. If applications are allowed it would not change the nature of suit. To avoid multiplicity of proceedings applications are deserve to be allowed for final adjudication of the matter on merits. Hence, the order.

:- ORDER :-

1. Applications are allowed subject to costs of Rs. 1000/-
2. Abatement is set aside. Delay caused is hereby condoned.
3. Costs of Rs. 1000/- be paid to the defendants on or before next date.
4. Plaintiffs to bring LR'S of deceased defendant No.1 on record and to carry out necessary amendment on or before next date as per order XXII Rule 04 of Code of Civil Procedure.

Date: 16/04/2024.
Mangaon

(M. S. Pathare)
3rd Jt. Civil Judge, J. D., Mangaon.