

MHRG110013832017



Common order below Exh. 63, 65 and 67 in R.C.S. No.173/2017

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

2. Defendants filed say on the applications and submitted that, suitable order may be pass.

3. Perused the relevant record. Heard both sides.

4. Plaintiffs submitted that, defendant No.1 Balkrushna Sadashiv Shinde was died on 28/09/2023. To bring LR's of deceased defendant No.1 on record 15 days delay has been caused. Plaintiffs submitted that, legal heirs of deceased defendant No.1 residing at Mumbai. To find out their address after demise of defendant No.1 time has been passed. Therefore, 15 days delay has been caused to bring LR'S within time. 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 of death certificate at Exh.70 it shows that, defendant No. 1 expired on 28/09/2023. 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. 500/-
2. Abatement is set aside. 15 days delay caused is hereby condoned.
3. Costs of Rs. 500/- 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.

sd/-

Mangaon

(M. S. Pathare)

Date: 10/01/2024.

3rd Jt.Civil Judge, J. D., Mangaon