



Common order below Ex. 64,66 & 68 in R.C.S. No. 104/2016

1. By these applications, applicant prayed for condonation of delay in bringing LR's of deceased defendant nos.10 and 30 on record, for setting aside abatement and the LR'S of deceased defendant nos.10 and 30 shall made party as defendants in the suit under order XXII Rule 04 of Code of Civil Procedure.
2. As per order dated 04/11/2022 applications proceed without say of defendants.
3. Perused the relevant record. Heard the both sides.
4. Considered the facts and circumstances of the case. These applications are supported with the affidavit of power of attorney holder for the plaintiff. Applicant contended that, defendant no.10 was died on 30/1/2021 and defendant no.30 was died on 30/1/2021. Due to the lock down of covid-19 Pandemic after demise of defendant nos.10 and 30 there is delay in bringing on record LR's of deceased defendants no.10 and 30 has been caused. Plaintiff contended that delay caused in bringing LR's of deceased defendants no.10 and 30 is not deliberate. Hence, prayed for allowing applications.
5. On perusal of record it shows that, the suit is filed for the Cancellation of sale deed, partition, declaration and perpetual injunction. When suit is abated and right to sue survives against LR'S of deceased defendant then it is necessary to bring LR'S of deceased defendant nos.10 and 30 on record. It is true that sole plaintiff has died. However, right to sue survives. The delay caused in bringing LR'S on record is not appearing deliberate. The LR's of deceased plaintiff are required to be brought on record for final adjudication of the matter on merits. Hence, the order.

-: O R D E R :-

1. Applications are allowed.
2. Delay cause in bringing LR's of deceased LR'S of deceased defendant nos.10 and 30 is condoned subject to costs of Rs.500/- be paid to the Government. Costs shall be paid on or before next date.
3. Abatement is set aside.
4. The LR'S of deceased LR'S of deceased defendant nos.10 and 30 shall made party as plaintiff in the suit as per order XXII Rule 04 of Code of Civil Procedure.

Date: 02/12/2022.

(M.S. Pathare)
2ndJt.Civil JudgeJ.D,
Mangaon.