

MHRG140008572022



COMMON ORDER BELOW EXH-82, 84 & 86

1. These applications (Exh-82, Exh-84, and Exh-86) are filed by the Plaintiff under Section 5 of the Limitation Act and Order XXII Rules 4 and 9 of the Code of Civil Procedure. The Plaintiff seeks to condone the delay of 688 days, set aside the abatement, bring the legal heirs of deceased Defendant No. 1 (Balaram Gopya alias Gopinath Thakur) on record, and amend the plaint.

2. Perused the applications. The Plaintiff has averred that Defendant No. 1 expired on 16/01/2023. The Plaintiff has listed the six legal heirs in the application. The Plaintiff contends that he is a senior citizen, and due to inadvertence and oversight, the steps to bring the legal heirs on record could not be taken within the prescribed period, resulting in a delay of 688 days.

3. The record reveals that no say has been filed by the defendants side. The applications have proceeded without say and remain unopposed.

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4. The present suit is filed for declaration and injunction. Therefore, the right to sue survives against the legal heirs of the deceased defendant.

5. It is a well-settled principle of law that the term 'sufficient cause' for condonation of delay should receive a liberal construction so as to advance substantial justice. When the delay is not intentional or mala fide, the Court should lean in favor of deciding the dispute on merits. Since the applications are unopposed and the reasons stated by the elderly Plaintiff appear bona fide, I find that sufficient cause is made out. Refusing to condone the delay and not setting aside the abatement would result in irreparable loss to the Plaintiff and defeat the ends of justice on mere technicalities. Hence, in the interest of justice, I proceed to pass following order;

ORDER

1. Applications Exh-82, Exh-84, and Exh-86 are hereby allowed.
2. The delay of 688 days in filing the application for bringing the legal heirs on record is condoned.
3. The abatement of the suit against deceased Defendant No.1 is set aside.

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4. The Plaintiff is permitted to bring the proposed legal heirs of deceased Defendant No.1 on record.
5. The Plaintiff is directed to carry out the necessary amendments in the cause title of the plaint and relevant court records within 14 days from the date of this order.
6. Issue suit summons/notice to the newly added defendants (Legal Heirs) upon payment of the requisite process fee, returnable on the next date.
7. No order as to costs.

Uran,
Date – 24.03.2026

S. P. Wankhade
Civil Judge, J.D., Uran