

COMMON ORDER BELOW EXH.45 & 38 IN R.C.S.NO.117/2012

CNR No.MHRG140002252012

1. This is an application filed by the plaintiff to set aside the abatement and to bring the legal representative of deceased plaintiff No.5 on record. Advocate of defendant has appeared and filed his say.

2. Read the application, perused the say heard both the learned advocate. It is transpired the plaintiff no.5 Datram Baburao Naik was expired on 25/07/2014. Therefore plaintiff has filed his application on 18/03/2017. Admittedly, the prescribed period to bring the legal representative on record has been elapse, hence this suit automatically get abated.

3. It is further appeared after perusing the recital of present application plaintiff has not given any bonafide reason which abstain them from making this application within the limitation. The present suit has been filed for declaration and possession. It is further appeared the deceased plaintiff No.5 is survive by wife and two sons. They are the only representatives of deceased plaintiff no.5. The right to sue,therefore, survives. Further as to avoid multiplicity of litigation and to resolved the real question in controversy, and to decide the matter on merit, it is necessary to set aside abatement and to bring the legal representatives on record. It would not prejudice or to cause great hardship to the defendant. Therefore in the interest of justice in the application is allowed.

-::ORDER ::-

1. The application is allowed.
2. Abatement is set aside.
3. The legal representative of the deceased of the plaintiff no. 5 be taken on record within limitation and amendment to that effect be carried out in the plaint forthwith.
4. The plaintiff to file amended copy of plaint on or before next date.
5. Issue notice to the proposed legal heirs representative of plaintiff no.5

Date :- 13.01.2020

Place :- Uran

(R. B. Pol)
Jt.Civil Judge Junior Division,
Uran