

:: Order Below Exh.54 In Regular Civil Appeal
No.478/2019 ::

1. Application is filed by Applicant for bringing legal heirs of Respondent No.5 on record. As per Applicant there are two legal heirs to Respondent No.5 and they are Shrikrishana Dharap and Rahul Dharap.

2. It is contended that Respondent No.5 died on 08/11/2019 and she is survived by these two legal heirs. Applicant has filed separate applications for delay condonation and for setting aside abatement at Exh.50 and Exh.52 respectively.

3. Respondents have objected this application but the grounds of objection are not elaborated.

4. Heard Ld. Advocates for both sides. Perused record. In support of application Applicant/Appellant has filed affidavit and photo copy of death certificate of Usha Shrikrishana Dharap. Respondents have not submitted any document.

5. Following points arise for my determination and findings thereon with reasonings are given as follows.

Sr. No.	Points	Reasons
1	Whether proposed legal heirs are requisite for determining real controversy between the parties ?	Yes.
2	What order ?	Application is allowed

:: REASONS ::

Point No. 1

6. Ld. Adv. for Applicant submitted that Shrikrishana and Rahul are survived by deceased Usha Dharap and they are necessary

parties for just decision of the case. It is further submitted that separate application for condonation of delay and for setting aside abatement are filed. Ld. Adv. for Respondent submitted that application is filed with a view to delay the proceeding.

7. Death of Respondent No.5 is not in dispute and there is not dispute that Shrikrushan and Rahul are legal heirs. Delay condonation application is on record and same is allowed. After death of a party legal heirs should be brought on record in order to decide the real controversy between the parties. If this is not done then it may create further litigation which may create multiplicity of proceeding. Therefore, in order to avoid this type of situation I am of the opinion that the application should be allowed. Hence, I pass following order.

:: ORDER ::

1. Application is allowed.
2. Applicant is directed to bring legal heirs more specifically described in para 3 of Exh.54 in the cause title of the Appeal memo within 14 days from passing of this order.
3. Applicant is directed to file amended Appeal memo.
4. Issue notice to legal heirs who are incorporated as per order below Exh.54.
5. Application is disposed of accordingly.

Panvel,
Dated :-16/06/2022

Sd/-
(S. C. Shinde)
District Judge-3, Raigad-Panvel.