

MHRT040000392022



ORDER BELOW EXH. 37 IN
REGULAR CIVIL APPEAL NO. 5 OF 2022

Prakash Shinde	Appellant
Versus	
Jagannath Shinde	Respondents

(1). By the instant application, appellant soliciting to set aside abatement of Respondent No.1 who died on 16-11-2023. The Respondents have filed purshis (Exh.28) about death of Respondent No.1 on 11-12-2023. The appellant received copy of death certificate on 15-02-2024. Therefore, appellant has prayed to set aside abetment of suit against Respondent No.1.

(2.) The Respondents resisted the application by filing say on it. According to Respondents application is filed at late. There is no consistent reason mentioned for the delay. Hence the application may be rejected.

(3). After perusing the record, it seems that the said appeal is filed against the Judgment and decree in original suit i.e., RCS

No. 41/2006 passed by the learned Civil Judge, J.D., Khed on 02/05/2015. It must be considered that important and valuable rights of the parties in respect of immovable properties is to be decided in this appeal. Therefore legal representatives of the respondent No.1 are necessary parties. Under such circumstances according to me abatement order must be set aside and LR shall be taken on record. Furthermore the delay caused is not deliberate. Thus, the appellant has sufficient cause for making this application to bring legal heirs of respondent No.1 on record. Abatement needs to be set aside. In the result, following order is passed.

ORDER

- (1) Application is allowed.
- (2) Abatement, if any, is set aside.
- (3) No order as to costs.

Khed.

Date :- 18.07.2024

(P. S. Chandgude)

District Judge -2, Khed,
Tal. Khed, Dist. Ratnagiri.

Certificate

I affirm that, contents of this P.D.F.file Judgment / order are same, word to word, as per the original Judgment / order.

Name of the English Stenographer	Mrs.V.S.Kulkarni
Name of the Court	Shri. P. S. Chandgude, District Judge-2, Khed, Dist.Ratnagiri.
Date of Pronouncement	18.07.2024
Judgment/order Signed On	19.07.2024
Judgment/order Uploaded On	19.07.2024