

ORDER BELOW EXH. 45 IN R.C.S. NO. 79/2016

Plaintiff no. 2 has filed present application to set aside abatement of suit against defendant no. 3.

It is contended by the plaintiff that, defendant no. 3 Shevanti Mahadev Ambre is died on 14/08/2018 at Mumbai. Plaintiff has a right to proceed against her legal heirs. Plaintiff has not took legal heirs of defendant no. 3 on record within limitation. Total delay for taking legal heirs on record is of 272 days. Hence suit is abated against defendant no. 3. Plaintiff has not caused this delay intentionally. Hence plaintiff prayed set aside abatement of defendant no. 3 .

Defendant has filed his say and resisted the suit. It is contended by the defendant that, present application is false and frivolous. Plaintiff has intentionally caused delay. Plaintiff has not given any proper reason for causing delay. Hence application may be rejected.

Heard Advocates for both the sides. Both of them argued as per the contentions of application and say.

Perused application, say and record of the case. Present suit is filed for declaration and injunction. Also plaintiff has filed on record death certificate of defendant no. 3 which is at Exh. 50/1. Plaintiff also filed affidavit along with application. Considering the nature of the suit it is necessary to bring on record legal heirs of the defendant no. 3. If suit is abated against defendant no. 3 it will lead towards the multiplicity of the proceeding. Hence

considering the nature of the suit and reason mentioned in the application, I proceed to pass following order.

ORDER

1. Application below Exh. 45 is allowed.
2. Abatement of suit against defendant no. 3 is set aside.

Place : Khed

Date : 13/08/2019

2nd Joint C.J.J.D., Khed