

...1...

R.C.S.No.13/2016
(Kashinath Vs. Vitthal)

Order Below Exh.90
(CNR No. MHRT070001282016)
(Passed On 10th October, 2022)

1] This is an application under section 5 of Limitation Act for condonation of delay for setting aside abatement to take L.Rs of deceased defendant no.3.

2] Perused the application and say. Heard both the Ld. Advocates at length. Perused the record. At Exh.97/1, plaintiff has filed death certificate of plaintiff no.1. It shows that, on 21/12/2020 defendant no.3 was died. The enlisted L.Rs are the known L.R's of defendant no.3. The contentions in the application are supported by an affidavit. Due to reason specifies therein, plaintiff could not bring him on record as legal heirs of defendant no.3.

3] In view of the direction of the Hon'ble Supreme Court, due the surge of COVID-19, the limitation was extended. So far as delay for defendant no.3 is concern, it is settled principle of law that, the application vide Sec.5 of Limitation Act must be construed liberally. Considering the reason which was fortify by an affidavit and which was not countered by any counter affidavit, the delay is required to be condoned for the just decision of the suit. Considering the discussion supra, delay for bringing L.R's on record

...2...

of deceased defendant no.3 is condoned subject to payment of costs of Rs.150/-.

Date : 10/10/2022

(Prasanna R. Kulkarni)
Jt. Civil Judge Junior Division
Chiplun.