

R.C.S. 44/18

Order below Exh.31 (Delay Condonation Appln.)

This is an application for condonation of delay caused to take legal representatives of Plaintiff Gajanan Gopal Shelar on record. As per the proposed LR's of plaintiff, Plaintiff Gajanan Gopal Shelar was died on 31/05/2021. After his death, there are legal representatives of the deceased plaintiff. There is a delay caused to file of said application. Delay is not intentional. Further, there are proposed legal representatives of the deceased plaintiff hence they should be on record. Hence prayed to allow said application and condone the delay caused and set aside abatement.

02. Defendants filed their say and prayed to reject application. As per the defendants the application is not within the limitation. The reasons mentioned are false and frivolous. In absence of justifiable grounds application is liable to reject.

03. In present suit the abatement order passed against Plaintiff Gajanan Gopal Shelar is set aside through the order below exhibit 34. Article 120 of the Limitation Act, 1963 stipulates that an application to have the legal representative of a deceased plaintiff or appellant or defendant, or respondent shall be filed within ninety days from the date of death of the said party. If a party fails to do so then the suit gets abated against that party. On perusal of copy of the death certificate filed at exh.35, it appears that Plaintiff Gajanan Gopal Shelar was died on 31/05/2021. Thereafter the plaintiff has to take legal representatives of defendant on record within 90 days but the plaintiff failed to do so.

04. On perusal of the application reason cited for the delay is not justifiable and not supported by any document. But it is a well-settled principle of law that this type of application shall be considered liberally. Further, by allowing this application no prejudice will be

caused to any party on the contrary it will help to decide the present suit on merit.

05. In given circumstances, the delay condonation application needs to be allowed in the interest of justice subject to a cost of this application that can be saddled on the applicant while condoning the delay. Hence, in the interest of the justice I pass the following order:-

ORDER

1. Delay condonation application is allowed.
2. Cost of this application is on the applicant.

Date:16/06/2023
Place: Lanja.

(P. R. Bhosale)
Civil Judge Junior Division.
Lanja.

CERTIFICATE

I affirm that the contents of this pdf file Order are same words as per original Order,

Case No : *R.C.S. No 44 of 2018*

Name of the Stenographer: *S. D. Chavan*

Court Name: *Civil & Criminal Court, Lanja,
Dist.Ratnagiri,*

Date of decision : *16/06/2023.*

Judgment/Order signed by P.O.on : *16/06/2023*

Judgment/Order uploaded on : *16/06/2023.*