

**Order below Exh.36 (Abatement set aside Appln.)**

This is an application for setting aside abatement against defendant no. 04 Urmila Laxman Gurav, defendant no. 05 Vasant Vishram Gurav and defendant no. 06 Shantaram Vishram Gurav. As per the plaintiff, defendant no. 04 Urmila Laxman Gurav was died on 21/04/2021, defendant no. 05 Vasant Vishram Gurav was died on 29/04/2021 and defendant no. 06 Shantaram Vishram Gurav died on 16/01/2022. After the death of the defendants, there are surviving legal representatives of the deceased defendant and they have to be on record for just the decision of this case. Hence prayed to allow said application and condone the delay caused.

02. Notice was issued to proposed legal representatives. They filed their reply at Exh. 47 and prayed to allow the application. The defendants have filed their say on the application. As the applicant is not in limitation also the application does not contain cogent and justifiable reason, they prayed to reject this application with costs.

03. Delay caused to file said application is condoned through order below exhibit 35. On perusal of copy of the death certificate filed at exh. 32/01, 33 and 34, it appears that defendant no. 04 Urmila Laxman Gurav was died on 21/04/2021, defendant no. 05 Vasant Vishram Gurav was died on 29/04/2021 and defendant no. 06 Shantaram Vishram Gurav died on 16/01/2022. On perusal of the application, it appears that there are legal representatives of the deceased. 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 and it will avoid multiplicity of the proceedings.

04. In given circumstances, an abatement order needs to be set aside subject to a cost of this application that can be saddled on the applicant while condoning the delay. Accordingly, I pass the following order.

**ORDER**

1. The application is allowed.
2. Abatement order is set aside.
3. Cost of this application is on the applicant.

Date:06/06/2023  
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 :* RCS 32 of 2017

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

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

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

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

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