

R.C.S. 32/2017
Order below Exh. 37 (Delay Condonation Appln.)

This is an application for condonation of delay caused to take legal representatives of defendant no. 04 Urmila Laxman Gurav, defendant no. 05 Vasant Vishram Gurav and defendant no. 06 Shantaram Vishram Gurav on record. 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 legal representatives of the deceased defendant. Delay is not intentional 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. In the present suit the abatement order passed against defendant no. 04 Urmila Laxman Gurav, defendant no. 05 Vasant Vishram Gurav and defendant no. 06 Shantaram Vishram Gurav is set aside through order below exhibit 36. 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. 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. Thereafter the plaintiff has to take legal representatives of

the defendants on record within 90 days from 21/04/2021, 29/04/2021 and 16/01/2022 respectively 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 subject to a cost of this application that can be saddled on the applicant while condoning the delay. Hence, in the interest of justice I pass the following order:

ORDER

1. Delay condonation application is allowed.
2. 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.