

Shri. Jayant Laxman Nimkar

Appellants.

Vs.

Shri. Rohidas Shankar Nimkar

Respondents.

Order below Exh. 91

1. This is an application filed by appellant No. 5 for setting aside abatement of the appeal against deceased appellant No. 2 for not bringing his legal heirs on record within the stipulated time.
2. Respondent resisted the application by filing say on it and prayed for its rejection.
3. Perused the application and say. Heard Ld. Advocate for both the sides at length. Perused the record. During the pendency of this appeal, the appellant No. 2 Suresh Laxman Nimkar died on 07.07.2022. As the appellants failed to bring his legal heirs on record within the stipulated period, the appeal abated against him. By this application the appellant No. 5 is seeking permission to bring the heirs of deceased appellant No. 2 on record and for setting aside the abatement. The dispute pertains rights in immovable property. No doubt there is delay in bringing the legal heirs of deceased appellant No. 2 on record, but, non granting of permission to the appellant No. 5 for bringing the legal heirs of appellant No. 2 would cause grave injustice as the said legal heirs would be deprived in contesting this appeal forever. Therefore, this application deserves to be allowed. Resultantly the following order.

ORDER

1. Application Exh. 91 is allowed.
2. The abatement of this appeal against appellant No. 2 is hereby set aside.

Date : 24.11.2022

(N. S. Momin)
District Judge- 1, Chiplun