

Reg. Civil Appeal No.98/2014
(CNR- MHSI010004222014)

ORDER BELOW EXH.22

This application is filed by the Appellant for condonation of delay which is caused to file application for setting aside abatement order against deceased Respondent No.19. Proposed legal representatives of deceased Respondent No.19 are duly served, but they failed to appear before Court. Therefore, the application proceeded exparte against them. The other side also failed to file say.

2/ Heard Advocate Shri. A.R. Chavan holding for Adv. Shri. R.D. Ambiyé for Appellant. No one is present on behalf of Respondents.

3/ It appears that, Respondent No.19 Shri. Sayaji Dattaram Desai is died on 16/01/2001. It is contended that, the Appellant came to know the date of death of Respondent No.19 very late and he did not get time to enquire due to the agricultural work and due the absence of knowledge of law. Therefore, it was not possible for him to file application for setting aside abatement within time or to bring legal heirs of Respondent No.19 in this Appeal. Therefore, the delay in filing application to set aside abatement order needs to be condoned.

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4/ Considering the reasons stated in application, I am of the view, the application deserves to be allowed. Hence, I pass the following order:-

ORDER

The delay in filing application for setting aside abatement is hereby condoned subject to cost of Rs.2,000/- to Government within 15 days.

Sd/-

Sindhudurg-Oros.
Dt.:-05/12/2018

(P. R. Kadam)
District Judge-1,
Sindhudurg-Oros.

Reg. Civil Appeal No.98/2014
(CNR- MHSI010004222014)

ORDER BELOW EXH.23

This application is filed by Appellant for setting aside abatement order passed against deceased Respondent No.19. Proposed legal representatives of deceased Respondent No.19 are duly served, but they failed to appear before Court. Therefore, the application proceeded exparte against them. The other side also failed to file say.

2/ Heard Advocate Shri. A.R. Chavan holding for Adv. Shri. R.D. Ambiyé for Appellant. No one is present on behalf of Respondents.

3/ It appears that, Respondent No.19 Shri. Sayaji Dattaram Desai is died on 16/01/2001. It is contended that, the Appellant came to know the date of death of Respondent No.19 very late and he did not get time to enquire due to the agricultural work and due the absence of knowledge of law. Therefore, it was not possible for him to file application for setting aside abatement within time or to bring legal heirs of Respondent No.19 in this Appeal. Therefore, it was not possible for him to file application for setting aside abatement within time or to bring legal heirs of Respondent No.19 in this Appeal. Therefore, the said abatement order needs to be set aside.

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4/ Considering the reasons stated in application, I am of the view, the application deserves to be allowed. Hence, I pass the following order:-

ORDER

1. The application at Exh.23 is allowed.
2. The abatement order passed against deceased Respondent No.19 is hereby set aside subject to payment of cost as per order below Exh.22.

Sd/-

Sindhudurg-Oros.
Dt.:-05/12/2018

(P. R. Kadam)
District Judge-1,
Sindhudurg-Oros.

Reg. Civil Appeal No.98/2014
(CNR- MHSI010004222014)

ORDER BELOW EXH.24

This application is filed by Appellant to bring on record legal heirs of deceased Respondent No.19. Proposed legal representatives of deceased Respondent No.19 are duly served, but they failed to appear before Court. Therefore, the application proceeded ex parte against them. The other side also failed to file say.

2/ Heard Advocate Shri. A.R. Chavan holding for Adv. Shri. R.D. Ambiyé for Appellant. No one is present on behalf of Respondents.

3/ It appears that, Respondent No.19 Shri. Sayaji Dattaram Desai is died on 16/01/2001. It is contended that, the Appellant came to know the date of death of Respondent No.19 very late and he did not get time to enquire due to the agricultural work and due the absence of knowledge of law. Therefore, it was not possible for him to file application for setting aside abatement within time or to bring legal heirs of Respondent No.19 in this Appeal. Proposed legal representatives of deceased Respondent No.19 are duly served, but they failed to appear before Court. Therefore, it seems that

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they have no objection to bring legal heirs of deceased Respondent No.19 on record. It is contended that, in the interest of justice, legal heirs of deceased needs to be allowed to bring on record. The applications at Exh.22 for condonation of delay and Exh.23 for setting aside abatement are allowed.

5/ Considering the facts and circumstances of the present case, the application to bring on record legal heirs of deceased Respondent No.19 deserves to be allowed. Hence, I pass the following order:-

ORDER

1. The application at Exh.24 is hereby allowed.
2. The Appellant is permitted to carry out necessary amendment and to add the names of legal heirs of deceased Respondent No.19 in Appeal, after payment of cost as per order below Exh.22.

Sd/-

Sindhudurg-Oros.
Dt.: -05/12/2018

(P. R. Kadam)
District Judge-1,
Sindhudurg-Oros.