

Reg. Civil Appeal No119/2017
(CNR- MHSI010006962017)

ORDER BELOW EXH.13

This application is filed by the applicant for condonation of delay which is caused to file application for setting aside abatement order. The other side objected the application by filing say on said application.

2/ Heard Ld Advocate Shri. B. N. Prabhu for applicant. No one is present on behalf of Respondents.

3/ It appears that, Appellant Yakub Baig Umar Baig is died on 07/08/2016 and his wife Ayashibi Yakub Baig is also died on 24/12/2017. It is contended that, Civil Misc. Application No.60/2015 was filed by applicant to bring on record the heirs of deceased Appellant, which was allowed by this Court. But, through oversight, it was not possible for them to file application for setting aside abatement within time or to bring legal heirs of Appellant in this Appeal. Therefore, the delay in filing application to set aside abatement order needs to be condoned.

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.200/- payable to the to every party in this Appeal except the party against whom Appeal is going on exparte within 15 days.

Sd/-

Sindhudurg-Oros.
Dt.:-27/11/2018

(P. R. Kadam)
District Judge1,
Sindhudurg-Oros.

Reg. Civil Appeal No.119/2017
(CNR-MHSI010006962017)

ORDER BELOW EXH.14

This application is filed by applicant for setting aside abatement order passed against deceased Appellant. The Respondents failed to file their say.

2/ Heard Ld Advocate Shri. B. N. Prabhu for applicant. No one is present on behalf of Respondents.

3/ It appears that, Appellant Yakub Baig Umar Baig is died on 07/08/2016 and his wife Ayashibi Yakub Baig is also died on 24/12/2017. It is contended that, Civil Misc. Application No.60/2015 was filed by applicant to bring on record the heirs of deceased Appellant, which was allowed by this Court. But, through oversight, it was not possible for them to file application for setting aside abatement within time or to bring legal heirs of Appellant in this Appeal. Therefore, the delay in filing application to set aside abatement order needs to be condoned.

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

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ORDER

1. The application at Exh.14 is allowed.
2. The abatement order passed against deceased Appellant is hereby set aside subject to payment of cost as per order below Exh.14.

Sd/-

Sindhudurg-Oros.
Dt.:-27/11/2018

(P. R. Kadam)
District Judge1,
Sindhudurg-Oros.

Reg. Civil Appeal No.119/2017
(CNR- MHSI010006962017)

ORDER BELOW EXH.15

This application is filed by the applicant to bring on record the legal heirs of deceased Appellant.

2/ Heard Ld Advocate Shri. B. N. Prabhu for applicant.
No one is present on behalf of Respondents.

3/ It appears that, Appellant Yakub Baig Umar Baig is died on 07/08/2016 and his wife Ayashibi Yakub Baig is also died on 24/12/2017. It is contended that, Civil Misc. Application No.60/2015 was filed by applicant to bring on record the heirs of deceased Appellant, which was allowed by this Court. But, through oversight, it was not possible for them to file application for setting aside abatement within time or to bring legal heirs of Appellant in this Appeal.

4/ It appears that Appellant Yakub Baig Umar Baig is died on 07/08/2016 and his wife Ayashabi Yakub Bag is also died on 24/12/2017. In the interest of justice, legal heirs of deceased needs to be allowed to bring on record. The applications at Exh.13 for condonation of delay and Exh.14 for setting aside abatement are allowed.

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5/ Considering the facts and circumstances of the present case, the application to bring on record legal heirs of deceased Appellant deserves to be allowed. Hence, I pass the following order:-

ORDER

1. The application at Exh.15 is hereby allowed.
2. The Applicants are permitted to carry out necessary amendment and to add their names as a legal heirs of deceased Appellant in Appeal, after payment of cost as per order below Exh.13.

Sindhudurg-Oros.
Dt.:-27/11/2018

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