



ORDER BELOW EXH. 76

Applicant has filed this application for condonation of delay caused for setting aside abatement against opponent No.4. It is contended that opponent No.4 Gangu alias Parvati Ganpat Khanvilkar died on 28.01.2006. Applicant came to know about her death by pursis Exh.16. Thereafter applicant tried to collect her death certificate and the information about her legal representatives. Applicant was suffering from high blood pressure and diabetes. Meanwhile due to covid-19 pandemic delay is caused to bring the legal representatives on record. There is delay of 4 years 7 months and 7 days. The delay was not caused deliberately and negligently. Hence, prayed for condonation of delay to set aside abatement against opponent No.4.

02. No say has been filed by any of the opponents.

03. Perused the application. Perused record. Perused the copy of death certificate of the opponent No.4. This application is filed on 12.09.2022. There is delay of about 4 years 7 months. The reason mentioned in the application for delay is not satisfactory and sufficient. But no say was filed by opponents to this application. Therefore to resolve the dispute on merit and to avoid the multiplicity of proceeding it will be just and proper to allow the application. In the result, I pass following order.

ORDER

1. The application is allowed.
2. No order as to costs.

Sindhudurg
Date – 30/01/2024

Sd/-xxx
(V. S. Deshmukh)
District Judge-2,
Sindhudurg-Oros.



ORDER BELOW EXH. 78

Applicant has filed this application for setting aside abatement order against opponent No. 4. It is contended that opponent No.4 Gangu alias Parvati Ganpat Khanvilkar died on 28.01.2006. Applicant came to know about her death by pursis Exh.16. Thereafter applicant tried to collect the her death certificate and her legal representatives. Applicant was suffering from high blood pressure and diabetes. Meanwhile due to covid-19 pandemic delay is caused to bring the legal representatives on record. There is delay of 4 years 7 months and 7 days. The delay was not caused deliberately and negligently. Hence, prayed for setting aside abatement against opponent No.4.

02. No say has been filed by any of the opponents.

03. Perused the application. Perused record. Perused the copy of death certificate of the opponent No.4. This application is filed on 12.09.2022. There is delay of about 4 years 7 months. The reason mentioned in the application for delay is not satisfactory and sufficient. But opponents have not filed their say to this application. Therefore to resolve the dispute on merit and to avoid the multiplicity of proceeding it will be just and proper to allow the application. In the result, I pass following order.

ORDER

1. The application is allowed.
2. No order as to costs.

Sindhudurg
Date – 30/01/2024

Sd/-xxx
(V. S. Deshmukh)
District Judge-2,
Sindhudurg-Oros.



ORDER BELOW EXH. 79

Applicant has filed this application for permission to bring on record the legal representatives of opponent No.4 and to amend the main application accordingly. It is contended that opponent No. 4 Gangu alias Parvati Ganpat Khanvilkar died on 28.01.2006. The proposed opponent No.4A is the only legal representative of opponent No.4. Hence, prayed for permission to bring the same on record and to amend the appeal memo accordingly.

02. No say has been filed by any of the opponents.

03. Delay is condoned and abatement is also set aside vide orders below Exhs. 76 and 78 respectively. To resolve the dispute on merit and to avoid the multiplicity of proceeding, it is essential to bring the legal representatives on record. Opponents have not objected that the proposed legal representative is not the legal heirs of deceased opponent No.4. The amendment sought is of formal nature. Hence, it will be just and proper to allow the application. In the result, I pass following order.

ORDER

1. The application is allowed.
2. No order as to costs.

3. Applicant to bring the legal representative of
opponent No.4 on record within prescribed period.

Sd/-xxx

Sindhudurg
Date – 30/01/2024

(V. S. Deshmukh)
District Judge-2,
Sindhudurg-Oros.