



CNR No. MHSI070000492013

**Order passed below Exh. No.170
(I.A. No.7/2024) in R.C.S. No.14/2013**

This is an application preferred by the plaintiff to condone the delay to file an application to set aside abatement.

2. The plaintiff has contended that, bailiff report was received stating that the defendant no.22 Bhalchandra Jagannath Mayekar died at Mumbai. The plaintiff tried to obtain name of the legal heirs of the deceased defendant no.22. However, the plaintiff could not get name and addresses of the legal heirs of the deceased defendant no.22. Later on, the plaintiff came to know name and addresses of legal heirs of the deceased defendant no.22. Therefore, delay was caused to bring on record legal heir of the deceased defendant no.22. Accordingly, prayed to condone the delay.

3. The defendant no.1 to 3 have resisted the application by filing say on overleaf of the application. It is contended that the application is false and frivolous. Therefore, prayed to reject the application. The proposed legal heirs no.22-A and 22-B have also resisted the application by filing say at Exh.178. It is contended that on 13/06/1999, the defendant no.22 was died. The defendant no.22 was died before the filing of present suit. The reasons are not bonafide and satisfactory. It is also contended that the plaintiff has not added their sister Shraddha Ajit Chavan after marriage known as Shobha Bhalchandra Mayekar. The delay is

inordinate, therefore, prayed to reject the application with compensatory Costs of Rs.10,000/-.

4. Heard both the sides. Both the parties have reiterated the contents of application and say. As per the contents of the application, the defendant no.22 died on 13/06/1999. The present suit is filed on 24/01/2013. On the date of filing of suit defendant no.22 was not alive. The plaintiff has given reason for the delay to bring on record legal heirs of deceased defendant no.22 is that he was unaware of death of defendant no.22. The application is supported with the affidavit of plaintiff. The reasons assigned for the delay is appeared to be proper and bonafide. Therefore, it would be just and proper to condone the delay for filing an application to set aside abatement on payment of Costs by the plaintiff to the defendants. Hence, I pass following order.

ORDER

1. The application at Exh.170 is hereby allowed and delay is condoned on payment of Costs of Rs.300/- by the plaintiff.
2. The Costs amount be paid to the defendants.

(Pronounced and dictated in open Court.)

sd/-

Place - Malvan
Date - 11/03/2024

Mahesh R. Devkate
Civil Judge Jr.Dn., Malvan.