



CNR No. MHSI070000492013

**Order passed below Exh. No.191
(I.A. No.8/2024) in R.C.S. No.14/2013**

This is an application preferred by the plaintiff to set aside abatement order passed against deceased defendant no.22.

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. Accordingly, application at Exh.171 was filed for condonation of delay. After issuing notices on the said application, the legal heirs were appeared and filed say. After filing of say the plaintiff came to know that the defendant no.22 died in the year 1999. The plaintiff was unaware regarding the death of the defendant no.22. Therefore, he could not prefer the application for setting aside abatement. Accordingly, it is prayed that abatement order be set aside against defendant no.22.

3. The defendant no.1 has resisted the application by filing say on overleaf of the application. It is contended that the reasons are not satisfactory. The application is preferred to delay the matter. Hence, prayed to reject the application.

4. Heard both the parties. Perused the order passed below **Exh.170**. The application at **Exh.170** is allowed and delay is already condoned. The defendant no.22 died, but right to sue is survived. The valuable rights of the parties are involved in the present suit. In order to decide the suit on merit, it is necessary to set aside abatement order passed against defendant no.22. Therefore, I pass following order.

ORDER

1. The application at **Exh.191** is hereby allowed and abatement against the defendant no.22 is hereby set aside on payment of Costs of Rs.200/-.
2. The plaintiff shall pay Costs amount to the defendants.

(Pronounced and dictated in open Court.)

sd/-

Place - Malvan
Date - 11/03/2024

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