



CNR No. MHSI070000872010
Order passed below Exh. No. 228
(I.A. No.4/2024) in R.C.S. No. 65/2010

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This is an application preferred by the plaintiff to set aside abatement order passed against deceased defendant no.6.

2. The plaintiff has contended that, on 14/11/2020 the defendant no. 6 namely Suresh Shankar Morvekar died. The plaintiff has also contended that he has no knowledge about the death of deceased defendant no. 6, therefore, he could not bring legal heir of deceased defendant no. 6 on record within stipulated period. Consequently suit was abated against the defendant no. 6. The legal heir of deceased defendant no. 6 is necessary to bring on record. Therefore, prayed to set aside abatement order passed against deceased defendant no. 6. The defendants have resisted the application by filing say on overleaf of the application. They have contended that, application is false and frivolous. Therefore, prayed to reject the application.

3. Heard both the parties. Perused the order passed below Exh.227. The plaintiff should have preferred this application before 30/07/2022. However, the plaintiff has preferred this application on 27/06/2024. The application is preferred after 1 year 10 months and 28 days, after the lapse of period of limitation. The application at Exh. 227 is allowed and delay of 1 year 10 months and 28 days is already condoned. The defendant no.6 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.6. Therefore, I pass following order.

ORDER

1. The application at **Exh.228** is hereby allowed and abatement against the defendant no. 6 is hereby set aside on payment of Costs of Rs.200/-.
2. The plaintiffs shall pay Costs amount to the proposed defendants.

(Pronounced and dictated in open Court.)

Date - 14/08/2024
Mahesh R. Devkate
Civil Judge Jr.Dn., Malvan.