



**CNR No. MHSI070000262023**  
**Order passed below Exh. No.47**  
**in R.C.S. No. 10/2023**

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The present applications are filed by plaintiff for bringing legal heirs of defendant no.2 on record by condoned delay.

2. Perused the record. Heard both sides.

3. Date of death of defendant no.2 is 04/05/2025 and the application is filed on 12/02/2025 i.e. beyond 90 days from the date of death of defendant no.2.

4. The applications are supported by an affidavit stating that due to his illness he has failed to file application to bring on legal heirs of deceased defendant no.2. Therefore, delay of 5 months is caused to bring on legal heirs of defendant no.2. According to him he had sufficient cause which prevented him from making application for bringing legal heirs on record. Therefore the delay needs to be condoned.

5. The notices were served to proposed legal heirs of deceased defendant no.1. They have failed to say anything in reply of the application contending that necessary order may be passed.

6. It is pertinent to note that plaintiff has filed death certificate of defendant no.2. The death certificate goes to show that defendant no. 2 died on 04/05/2025. The defendant no.2

is survived by wife, daughter and son. However, it is well settled by a catena of decisions of Hon'ble Apex court as well as High Court that while setting aside abatement order liberal approach is to be adopted and delay is to be condoned. In order to enable the court to effectively and completely adjudicate upon and settle all the questions involved in the suit, it is necessary to allow these applications to bring on record the legal representative of deceased defendant no.2, as the right to sue is survived. Hence I proceed to pass the following order. Sd/-

**ORDER**

- The applications Exh. 44 to 46 are
1. allowed.
  2. The abatement and delay for bringing legal heirs of plaintiff is condoned.
  3. Plaintiff is permitted to bring legal heirs of deceased defendant no.2 on record on or before next date.

(Pronounced and dictated in open Court.)

Sd/-

Place: Malvan  
Date: 09/06/2026

( M.K. Fakh)   
Civil Judge (J.D.), Malvan.