



CNR No. MHSI070004672015
Order passed below Exh. No. 46
(I.A. No.4/2024) in R.C.S. No. 112/2015

This is an application preferred by the plaintiff to set aside abatement order passed against deceased defendant no.1.

2. The plaintiff has contended that, on 20/08/2020 the defendant no.1 namely Devraj Tatu Paradkar died. The plaintiff has also contended that he is 84 years old person and suffering from various ailments. Due to spread of Covid-19, he was unable to collect the necessary document and could not meet his advocate. Therefore, he could not bring legal heir of deceased defendant no. 1 on record within stipulated period. Consequently suit was abated against the defendant no. 1. The legal heir of deceased defendant no. 1 is necessary to bring on record. Therefore, prayed to set aside abatement order passed against deceased defendant no. 1. The defendants have resisted the application by filing say overleaf of the application. They have contended that, present application is filed delayed. No satisfactory reasons are assigned for the said delay. Therefore, prayed to reject the application with Costs.

3. Heard both the parties. Perused the order passed below Exh.45. The plaintiff should have preferred this application before 30/07/2022. However, the plaintiff has preferred this application on 01/07/2024. The application is preferred after 1 years 11 months and 02 days, after the lapse of period of limitation. The application at Exh. 45 is allowed and delay of 1 year 11 months and 02 is already condoned. The

defendant no. 1 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.1. Therefore, I pass following order.

ORDER

1. The application at **Exh. 46** is hereby allowed and abatement against the defendant no. 1 is hereby set aside on payment of Costs of Rs.200/-.
2. The plaintiff shall pay Costs amount to the proposed defendants.

(Pronounced and dictated in open Court.)

Mahesh R. Devkate

Date - 03/09/2024

Civil Judge Jr.Dn., Malvan.