



CNR No. MHSI070004792018

**Order passed below Exh. No.65
(I.A. No.9/2023) in R.C.S. No.94/2018**

This is an application preferred by the plaintiff to set aside abatement order passed against deceased defendant no.2.

2. The plaintiff has contended that defendant no.2 namely Ratnprabha Ramesh Naik died on 07/12/2020. It is contended that name and addresses of the legal heirs could not be known to the plaintiff. The plaintiff could not get name and address of the legal heirs of deceased defendant. Consequently, the plaintiff could not bring the legal representative of deceased defendant no.2 within the prescribed period. Therefore, suit was abated against defendant no.2. The legal heirs of deceased defendant no.2 are necessary to brought on record. Therefore, prayed to set aside abatement order passed against deceased defendant no.2.

3. The defendants no.1, 4 and 6 have resisted the application by filing say on overleaf of the application. It is contended that the reasons assigned by the plaintiff are not satisfactory. Therefore, prayed to reject the application.

4. Heard both the parties. Perused the order passed below Exh.64. The plaintiff should have preferred this application before 07/03/2021. However, the plaintiff has preferred this application on 24/01/2023. The application is

preferred after 07 months and 25 days, after the lapse of period of limitation. The application at **Exh.64** is allowed and delay of 07 months and 25 days is already condoned. The defendant no.2 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.2. Therefore, I pass following order.

ORDER

1. The application at **Exh.65** is hereby allowed and abatement against the defendant no.2 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.)

Place - Malvan
Date - 01/08/2023

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