

COMMON ORDER PASSED BELOW EXH.NO. 124 to 126 IN
R.C.S.No. 09/2009

The present applications are filed by plaintiff for bringing legal heirs of defendant no. 16(a) on record by condoning delay.

2. Perused the recored. Heard both sides.

3. Date of death of defendant no. 16(a) is 28.04.2019 and the applications are filed on 18/12/2019 i.e. beyond 90 days from the date of death of defendant no. 16(a).

4. The applications are supported by an affidavit stating that, as per summons he get knowledge about the death of deceased defendant no. 16(a). Hence he could not file application for bringing legal heirs of deceased defendant No. 16(a) within stipulated period. According to him he had sufficient cause which prevented him for making application for bringing legal heirs on record. Therefore the delay needs to condon.

5. The applications are objected by defendants by filing say contending that, application is false and frivolous. Cogent reasons are not given by plaintiff. Hence, they prayed for rejection of application.

6. It is pertinent to note that plaintiff's have filed xerox copy of death certificate of plaintiff No. 16(a) alongwith list Exh. 128. The death certificate goes to show that plaintiff No. 16(a) is died on 28/04/2019 at Mumbai. The reason submitted by the plaintiff regarding as per suit summons he get knowledge about the death of deceased defendant no. 16(a). 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 the application to bring on record the legal representative of deceased defendant No. 16(a). Hence, I proceed to pass the following order.

ORDER

1. The applications are allowed.
2. The delay for bringing legal heirs of defendant No. 16(a) is condoned.
3. Legal heirs of deceased defendant No. 16(a) is permitted to join as defendants subject to cost of Rs. 100/- payable to defendants.

Date : 06/02/2020

(Salim A. Jamadar)
Civil Judge J.D. Kankawali.