

Common order below Exh. 96 & 97

Plaintiff has filed application at Exh. 96 for condonation of delay and application at Exh. 97 for setting-aside abatement order passed against the deceased deft. no. 8 and 13.

2. Read the application. Also read the say filed by deft. no. 1. According to plaintiff, deft no. 8 was reported dead on 12/01/2015 at Naringre and deft. no. 13 was reported dead on 29/01/2014 at Mumbai. Plaintiff claimed that, he was seek person and he was unable to collect the information of the legal representatives of deceased defendant within limitation. For these delay is caused to him for bringing on legal representatives of deceased defendants on record. He has not caused delay deliberately. For these reason delay be condoned and abatement order passed against deft. no. 8 and 13 be set-aside. Applications are strongly objected by the deft. no. 1 on the ground that, no sufficient explanation given by the plaintiff about delay. Also explanation sought by the plaintiff about delay is not proper and lawful. Hence application be rejected with cost.

3. On the basis of applications notices were issued to the legal representatives of deceased deft. no. 8 and 13. Those notices are duly served on them. However, legal representatives of deceased deft. no. 8 and 13 were not appeared in the matter. They have not challanged the plaintiff's applications. On perusal of death certificate of deceased deft. no. 8 and 13 it appears that, they have reported dead on 12/01/2015 and 29/01/2014 respectively. The defendant no. 1 has objected the

applications on the ground that, non explanation of delay by the plaintiff. The reason given by the plaintiff that, he was seek person is not supported by any documents. Also grounds mentioned by the plaintiff in his applications are not justifiable. But as the suit is for partition it is necessary to permit the plaintiff to bring on legal representatives of deceased deft. no. 8 and 13 as they are necessary & proper parties to the suit. Also as plaintiff has failed to explain the delay properly, it would be just and proper to impose heavy cost on him. For these reasons both the applications deserves to be allowed subject to cost. Hence the following order.

- **ORDER** -

- (1) Both the applications are allowed subject to cost of Rs. 400/- each. Out of which Rs. 400/- be paid to defendant no. 1 and remaining be credited to Government.
- (2) After depositing cost by plaintiff delay is condoned and abatement order against deft. no. 8 and 13 is set-aside.
- (3) Cost in main cause.

Date :- 09/03/2016

(**K.K.Mane**)
Civil Judge (J.D.), Deogad.

R.C.S.No. 58/2009

Anant Narkar Vs.Sanjay Narkar & others

Order below Exh. 94

The present application is filed by plaintiff for substituting legal representatives of deceased deft. no. 4 and 10 under Order 22 Rule 4 of Code of Civil Procedure.

2. Read the application. The legal representatives of deft. no. 4 and 10 were not appeared in the matter. They have not contesting the application. In view of order passed below Exh. 92 and 93 delay is condoned and abatement against deft. no. 4 and 10 is seting-aside. For these reasons it is necessary to permit the plaintiff for substituting legal representatives of deceased deft. no. 4 and 10. Hence the following order.

- ORDER -

- (1) Application is allowed subject to condition that, depositing cost as order below Exh. 92 and 93. If plaintiff fails to deposit cost order stands vacated.
- (2) Plaintiff is directed to substitute the legal representatives of the deceased deft. no. 4 and 10 and carry out amendment in that respect on or before next date. He is also directed to furnish amended copies immediately for further compliance.
- (3) Cost in main cause.

(K.K.Mane)

Date :- 17/06/2014

Civil Judge (J.D.),Deogad.