

(CNR NO.MHSNO-40003912024)
ORDER BELOW EXH.24 IN CIVIL MISC.APPLICATION NO.23 OF 2024
(Shri.Dineshsing Pardeshi, etc. Vs. Sou.Manorama Hajare, etc.)

This is an application filed by applicants for setting aside abatement order. The opponents have filed reply opposing the application.

02. Heard. Perused the record.

03. It is the contention of applicants that, opponent No.2 Jaymala Jagdishsing Pardeshi expired on dated 21/05/2024 during pendency of the application. The applicants have no knowledge about law and the death extract of opponent No.2 not received within time. Therefore, the delay is caused to bring legal representatives of deceased opponent No.2 on record which is not deliberate. Hence, the applicants prayed to set aside abatement order against opponent No.2.

04. The opponents have resisted the application by filing say and denied all the contentions made in the application. The death of opponent No.2 Jaymala Jagdishsing Pardeshi is not disputed by the opponents. However, it is contended that the reason mentioned for abatement is false. Hence, application may be rejected.

05. Perused application, affidavit and say of other side. Perused the death extract [list Exh.21] filed by the applicants it reveals that opponent No.2 expired on 21/05/2024. The applicants have filed this application on dated 20/09/2024. Apparently it is not filed within the stipulated period of limitation i.e. within 90 days and therefore the application is automatically stood abated against deceased opponent No.2. However, it transpires from the application that sufficient and genuine reason for not bringing legal representative on record are explained by the applicants. The delay is already condoned vide Exh.23.

The applicants are inclined to challenge the temporary injunction order passed in R.C.S. No.172/2015. Hence, considering this circumstances, I hold that the abatement needs to be set-aside in the interest of justice.

06. In view of discussion made above, I hold that the application deserves to be allowed. In the result following order is passed.

ORDER

1. The application is allowed.
2. The abatement of proceeding against deceased opponent No.2 stands set aside.

(A. H. Kashikar)
Adhoc District Judge-1, Islampur

Date :- 30/06/2025

CERTIFICATE

I affirm that the contents of this P.D.F. file are same, word to word, as per original order.

Name of the Stenographer	: J. R. More, Steno, (Grade-I)
Court Name	: Adhoc District Judge – 1 & Addl. Sessions Judge, Islampur.
Date	: 30/06/2025
Signed by P.O. on	: 30/06/2025
Uploaded on	: 01/07/2025