

COMMON ORDER BELOW EXH. 92, 93 and 94 IN

R.C.S. NO. 283/2013

(Shri. Raosaheb Tardale Vs Shri. Tatyasaheb Tardale etc.)

1. Plaintiff has filed exh. 92 for condonation of delay to bring legal heirs on record, exh.93 for setting aside abatement and exh. 94 for seeking amendment to bring legal heirs of deceased plaintiff on record.

2. Ld. advocate for plaintiff further submitted that Raosaheb Baburao Tardale was died on 01/02/2020. In support of his contention he filed death certificate at exh. 91/1. Present suit is for declaration, permanent injunction, partition and separate possession. Therefore after death of plaintiff cause of action survives against legal heirs of deceased plaintiff. The application is not filed within 90 days from date of death due to COVID-19 pandemic situation. During that period court working is limited for urgent relief as directed by the Hon'ble Bombay High Court. Due to COVID-19 pandemic situation, he has not obtained death certificate within time. So he failed to bring legal heirs on record within prescribed period of limitation. Therefore, he humbly prayed to condone said delay, set aside abatement order and grant him permission to carry on amendment to bring legal heirs on record.

3. Ld. advocate for defendant no. 8/1 to 8/3 resisted application by filing say on same overleaf. He objected the application. He submits that, plaintiff deliberately made delay to file present application. The reason mentioned in application is not sufficient in nature. So he prayed to reject the application. Alternatively he prayed to allow application subject to heavy costs. Remaining defendants failed to file say thereon. So I pass no say order against remaining defendants and proceed further.

4. After perusal of record, it appears that reasons mentioned in application for causing delay to file present application is reasonable and sufficient in nature. The present suit is in respect of partition, separate possession, declaration and permanent injunction. After death of plaintiff right to suit surviving legal heirs. Present suit is in respect of immovable property. So it will be justifiable to decide present matter on merit, to permit plaintiff to bring legal heirs on record. The delay caused for filing present application is sufficient and reasonable in nature. Though present application objected by defendant no. 8, it will be justifiable to pass the order without cost. Hence I pass following order.

ORDER

- 1] The application under exh. 92, exh. 93 and exh. 94 are allowed without any cost.
- 2] The delay caused to file present application is hereby condoned. The abatement order against deceased plaintiff is hereby set aside.
- 3] Ld. advocate for plaintiff is permitted to carry on amendment within 14 days from the date of order.

Miraj.
Date -21/09/2021

Sd/-
(Smt. M.S. Managuli)
2nd Jt. Civil Judge, Jr. Div., Miraj.

CERTIFICATE

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

Name of the Stenographer : Sou. A.C. Patil (Grade-III)
Court : IInd Jt. C.J.J.D. & J.M.F.C., Miraj.
Judgment/Order signed by
the Presiding Officer on : 24/09/2021
Judgment/Order uploaded on : 24/09/2021