

MHSN080010362016



Order below Exh. 38 in RCS No. 149/2016
(Hirabai Koli Vs Uttam Koli & Ors.)
(Passed on 17/06/2025)

The instant application filed by the power of attorney holder Nandu Bapu Koli on behalf of plaintiff. It is the contention of POA of plaintiff that, the plaintiff was died on 31/08/2021. Due to non availability of death certificate of the plaintiff, he has not able to file an application for taking his name on record of the case. Thus, he prayed for condoning delay and setting aside an abetment of suit against the plaintiff. Learned advocate of the defendant has filed his say vide Exh. 45 and opposed the application. He has submitted that, the proposed plaintiff is having full knowledge of the suit as he had been acted as a POA of original plaintiff. Thus, reason given for delay is not sufficiently explained by the proposed LR of the deceased plaintiff.

2 Application Exh. 40 has been filed by the POA of the original plaintiff for taking his name in the place of plaintiff after the death of original plaintiff. The defendant has filed his say vide Exh. 46 and objected the application. He has submitted that, the applicant is prying for adding him the party on the ground of alleged Will executed by the plaintiff in favour of the present applicant. The instant application is filed on the basis of the present applicant being the power of attorney of original plaintiff.

3 Read the application and say. It is not in dispute that, the present applicant was POA of the deceased plaintiff. After the death of original plaintiff his authority to deal with the suit is stand terminated. Application Exh. 38 has been filed by the POA of original plaintiff. After the death of original plaintiff the present applicant is having no authority/power to file application on behalf of deceased plaintiff. So also, reason given for delay is not properly explained. The applicant being POA of the original plaintiff. He having full knowledge of the suit. Thus, the explanation given for delay is not appears to be proper. So also, application Exh. 38 and 40 have been filed by the applicant on the capacity of POA of the original plaintiff. After the death of original plaintiff POA is automatically stand terminated. The applicant is not the Class-I heir of the plaintiff. He is claiming right on the basis of Will. Thus, reason given for delay is not properly explained by the applicant and therefore, can not be condoned. Hence, in the result I pass following order.

ORDER

1. Application Exh. 38 & 40 are hereby rejected.
2. Costs in cause.

Place :- Jath
Date :- 17/06/2025

(Prakash C. Bachhale)
Civil Judge Junior Division,
Jath