

REGULAR CIVIL SUIT NO.46/2016
[Common Order Passed Below Exh.28, 30 & 32]
[Dinkar Nivrutti Chavan etc.4 v/s. Nandakumar Janardan Chavan etc.11]

Application Exh.28 is filed by the plaintiff for condoning the delay in bringing the legal heirs on record. Application Exh.30 is filed for setting aside order of abatement. Application Exh.32 is filed by the plaintiff for bringing the legal heirs of deceased plaintiff no.1. According to plaintiff, plaintiff no.1 is died on 23.10.2017 at Manerajuri and 1 month 11 days delay has been caused in bringing the legal heirs on record.As the plaintiff are illiterate and not having knowledge of the procedure, they failed to brought on record the legal heirs of deceased plaintiff no.1

2] Defendant no.1, 2, 4, 5 and 6 contested the applications by filing their say at Exh.34. Death certificate of plaintiff no.1 alongwith Exh.27/1. On perusal of it, it appears that, plaintiff no.1 died on 23.10.2017. Legal heirs of deceased plaintiff no.1 are appeared in this matter vide Exh.24. The suit is for permanent injunction and declaration. Right to sue survive for legal heirs. Considering the nature of the suit and as already legal heirs of plaintiff no.1 are appeared in the matter, it would be proper to allow these applications and permission be given to the plaintiff for bringing the legal heirs of deceased plaintiff no.1 on record and amend the plaint accordingly. Hence, the applications at Exh.28, 30 and 32 deserve to be allowed. In the result, the following order is passed :-

: ORDER :

1. Applications at Exh.28, 30 and 32 are hereby allowed-
2. The delay caused for bringing the legal representatives of the deceased plaintiff no.1 on record is hereby condoned.
3. Deemed order of abatement stands set aside.
4. Plaintiffs are permitted to bring legal representatives of the deceased plaintiff no.1 on record and amend the plaint accordingly.

Tasgaon
Dt.10.07.2018

Sd/-xxx
(Smt. S.S. Manjrekar)
Jt. Civil Judge, Junior Division,
Tasgaon