

COMMON ORDER BELOW Exh. 34, Exh.36 & Exh.38
IN R.C.S. No. 67/2015

(Passed on 23/08/2023)

Present applications are filed by legal representatives of plaintiff for setting aside abatement caused due to death of sole plaintiff Vyankatrao Jaiwant Bhosale and for condonation of delay caused for filing an application with liberty to bring his legal heirs on record.

2- Applicants submitted that their predecessor has filed this suit for declaration and injunction. It is submitted that plaintiff Vyankatrao Jaiwant Bhosale is died on 18.11.2020 and applicants are legal heirs of plaintiff. It is contended that present legal representatives No 1 to 4 are wife and children of deceased Vyankatrao. The applicant No. 2 to 4 are residing out of their native place. Further they were unaware about present suit and also they had no knowledge to take legal heirs on record after the death of either of the party. Therefore, delay has been caused to take legal heirs of plaintiff on record. Hence, it is prayed that the delay caused to take legal heirs of plaintiff on record be condoned and liberty to take them as legal heir on record be granted.

3. The say of defendants was called. But defendants have failed to file their say to present applications. Therefore, applications are proceeded without their say.

4. Perused the application and say. Heard both sides. After perusal of record, it appears that plaintiff is died on 18.11.2020. Moreover, there is no dispute in respect of the same by the defendants. It is also not disputed that applicants are legal heirs of plaintiff and their right

to sue survive after the death of plaintiff. In such circumstances, merely the delay has been caused will be no ground to reject the application. On the contrary, these applications are supported by affidavit wherein applicants have made sufficient cause which prevented them from taking the legal heirs of plaintiff on record. Apart from it, plaintiff is died on 18.11.2020 i.e. during pandemic period of Covid-19. It is pertinent to note here that the limitation period had been exempted till 15.03.2020 to 15.02.2022 by the Hon'ble Supreme Court. Present applications are filed on 08.02.2022 i.e. during the period exempted. Therefore, considering the reasons mentioned by applicants, it would be proper to allow the application. In turn, I pass following order.

ORDER

- 1) Applications Exh. 34, 36 and 38 are allowed.
- 2) The delay caused for taking legal heirs on record is condoned.
- 3) The formal abatement order passed against plaintiff is set aside.
- 4) The legal heirs of plaintiff i.e. applicants are allowed to bring legal heirs of plaintiff on record.
- 5) The applicants are directed to comply the order within two weeks from the date of order.

Tasgaon

(D. A. Darveshi)

Date :23.08.2023

2nd Joint Civil Judge J. D., Tasgaon.

C E R T I F I C A T E

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	: N.P.Kulkarni (Stenographer-III)
Court Name	: 2 nd Jt. C.J.J.D. & J.M.F.C., Tasgaon.
Date of judgment/order	:23.08.2023
Judgment/Order signed by the Presiding Officer on	:23.08.2023
Judgment/Order uploaded on	:24.08.2023