

MHSN090011442023



R.C.S.No.189/2023
Sushila etc.4 V/s Rajkumar etc.1

ORDER BELOW EXH.NO.15

This is the application moved by the legal representative of deceased plaintiff No.2 to set aside the abatement order against plaintiff no.2.

2. Legal representative of deceased plaintiff no.2 averred that, plaintiff No.2 died on 19.04.2024. The legal representative of plaintiff no.2 could not given information to their learned advocate within time. Hence, the suit is abated against deceased plaintiff no.2. The right to sue survives to legal representative of plaintiff no.2. Therefore, the abatement order against plaintiff no.2 needs to be set aside. Hence, this application.

3. Defendants failed to file their say. Hence, no say order passed against defendants.

4. I have heard learned advocate for legal representative of deceased plaintiff No.2.

5. I have perused the present application, the death certificate of plaintiff no.2 (Exh.22). Reportedly, plaintiff no.2 died on 19.04.2024. The application is filed on 09.09.2024. i.e. beyond 90 days from the date of death of plaintiff no.2. Therefore, the suit was abated against plaintiff no.2.

6. The application is supported by an affidavit stating therein the reason for delay. It appears that, the the legal

representative of deceased plaintiff No.2 had sufficient cause which prevented them from making an application. The suit filed for mandatory & perpetual injunction. The right to sue survives to legal representatives of plaintiff no.2. Therefore, the abatement order needs to be set aside. Hence, I pass the following order -

ORDER

1. The application is allowed.
2. The abatement order against plaintiff no.2 is set aside subject to cost of Rs.300/- paid by the legal representative of deceased plaintiff No.2 to defendants.

Place - Tasgaon
Date - 19.09.2025

(Smt. B. R. Avachari Durgawade)
C.J.J.D, Tasgaon