

**COMMON ORDER BELOW APPLICATION VIDE EXH. 185,
186 & 187 IN R.C.S.No.39/2009.**

(Baban Nana Nasale Vs. Shankar Vithoba Nasale)

1] This is an application filed by plaintiff to set aside the abatement order by condoning delay and bringing the LR's of deceased defendant no.4E, 4F, 6, 19, 22, 35 on record by setting aside the order passed against plaintiff and to make necessary amendment in the plaint.

2] It is contended and submitted by learned advocate of plaintiff that, defendant no. 4E Shakubai Baburao Khalage died on 10/10/2020, defendant No.4F died on 17/12/2016, defendant No.6 Maruti Ramu Nasale, defendant No.19 Kasabai Bhimrao Chalpate, defendant No.22 Babita Vithoba Pise and defendant No.35 Hirabai Vithoba Kolavale died on 08/11/2024. Plaintiff was not having knowledge of death of defendant no. 4E, 4F, 6, 19, 22, 35. The information regarding death of defendant Nos.4E, 4F, 6, 19, 22, 35 was not received early. Hence, they could not bring the legal representatives of defendants within the prescribed period.

3] The record shows that, defendant No.4E died on 4E Shakubai Baburao Khalage died on 10/10/2020, defendant No.4F died on 17/12/2016, defendant No.6 Maruti Ramu Nasale, defendant No.19 Kasabai Bhimrao Chalpate, defendant No.22 Babita Vithoba Pise and

defendant No.35 Hirabai Vithoba Kolavale died on 08/11/2024. Defendants have filed say overleaf the application and resisted to the same. It is the contention of defendants that no reasonable ground are mentioned in the application for delay. Application is not in limitation. Application is false one. Plaintiff was having full knowledge about death of defendants. Plaintiffs have not inserted the all legal heirs of the deceased defendants. Hence, prayed to reject the application.

4] Heard both the advocates. Considering the contents of the parties and the arguments, it is pertinent to note here that, the delay to set aside the abatement order of defendant no.4E, 4F, 6 is near about approximately 5 years and defendant No.19, 22 is near about approximately 9 years and for defendant No.35 is near about 1 year. The right to sue accrues to the legal representative of defendants. Considering the nature of suit and for proper adjudication legal heirs of defendants are necessary parties to the suit. Hence, I proceed to pass following order:

:: ORDER ::

- 1] Application Exh. 185, 186, 187 are allowed and delay to set aside abatement order is hereby condoned and order abatement stands set aside on cost of rupees 3000/- to be deposited in Court on next date.

2] Defendants are permitted to bring the legal representatives of deceased defendant nos.4E, 4F, 6, 19, 22, 35 in the application on next date and file amended plaint.

3] Cost in Cause.

sd/-

Date: 17/10/2025.

(**R.B.Kulkarni**)
Jt. Civil Judge Jr. Dn.,
Atpadi.

Certificate

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

Name of the Stenographer - A.S. Yadav
Court - R. B. Kulkarni
Jt. CJJD and JMFC, Atpadi.
Date - 17.10.2025
Order signed by the
Presiding Officer on - 17.10.2025
Order uploaded on - 17.10.2025