

IN THE COURT OF ADHOC DISTRICT JUDGE-1, AT SOLAPUR
(Presided over by S. V. Kendre)



Regular Civil Appeal No. 41/2022
Vanita Baliram Patil Versus Nagarbai Vasudeo Patil
(CNR No. MHSO010015892022)

Order Passed Below Exh. 34

1. The appellant has filed this application for condonation of delay of 1 year 3 months and 6 days for bringing L.R.'s on record of respondent No. 5 and condonation of delay of 17 years, 10 days to bring L.R.'s on record of respondent No. 10. It is the case of appellant that, after the death of respondent No. 5 he has applied for death certificate and on 26/12/2024 he has received the copy of death certificate of respondent No. 5. Thereafter, there was delay in collection of information of the legal heirs of respondent No. 5.
2. As far as respondent No. 10 is concerned, it is the case of appellant that, R.C.S. No. 225/1989 was proceeded ex parte against respondent No. 10. Thereafter, he don't have any knowledge with respect to the death of respondent No. 10. In this appeal when notice was issued to the respondent No. 10, from the notice report the appellant came to know that respondent No. 10 is dead. So, there is delay. The respondent No. 1 to 4, 5(a) to 5(d) have filed their say to the effect that necessary order may be passed.
3. Heard both sides at length. On perusal of death

certificate of respondent No. 10 it appears that, on 09/11/2007 respondent No. 10 was died. At that time his permanent address is shown as Chikhali, Tal. Mohol, Dist. Solapur. It is pertinent to note that permanent address of appellant is also Chikhali, Tal. Mohol, Dist. Solapur. The appellant has taken on record legal heirs of respondent No. 3, respondent No. 6 and respondent No. 8 by way of amendment on 04/11/2024. Therefore, the case put up by appellant that, he has no knowledge about the death of respondent No. 10 seems to be devoid of any merit.

4. As per Article 120 of Limitation Act, the limitation prescribed for bringing legal representatives on record is 90 days. Upon failure, the appeal stands automatically abetted against the respondent No. 5 & 10 as per Order XXII, Rule 3(2)/4(3) of C.P.C. as held in *Union of India V/s. Ram Charan*. Thereafter, application to set aside abatement must be filed within 60 days under Article 121 of the Limitation Act. However, in the case on hand respondent No. 5 was died on 13/08/2023 and this application was filed on 17/02/2025 i.e., after 1 Year, 6 Months and 4 Days. Respondent No. 10 was died on 09/11/2007 and the present application is filed on record on 17/02/2025 i.e., after 17 Years, 3 Months and 8 Days. The delay in present case is not of few days or of few months, but it is of years which is inordinate and extraordinary. It is well settled that, normally the Court should adopt liberal approach while condoning the delay. However, such discretion can not be exercised in the absence of sufficient cause.

5. The delay can not be condoned mechanically and the

explanation must cover entire period of delay. Inordinate delay without sufficient cause denied the very purpose of limitation. Sufficient cause does not mean a license to the litigants to approach the Court at their leisure and that negligence or inaction cannot constitute sufficient cause as held in *Lanka Venkateswarlu (D) by L.R's. V/s. State of Andhra Pradesh* and *Balwant Singh Vs Jagdish Singh*.

6. In the present case the appellant failed to explain the delay day to day or even year to year. The reasons assigned are vague and general in nature. No material has been placed on record to demonstrate bonafide efforts taken by the appellant to proceed with the matter. The explanation offered does not inspire confidence and does not constitute cause within the meaning of section 5 of the Limitation Act. Thus, the present application is grossly barred by limitation. Hence, present application deserves rejection. Resultantly, following order is passed.

ORDER

Application is rejected.

(Dictated & pronounced in open Court).

Date : 27/02/2026
Place : Solapur.

(Suraj V. Kendre)
Adhoc District Judge-1,
Solapur.

CERTIFICATE

I affirm that the contents of this PDF file Judgment/Order is same word to word as per the original Judgment/Order.

- (a) Name of the Stenographer : Mahesh Arjun Kore (Grade-1)
- (b) Court : Ad-hoc District Judge-1 &
Addl. Sessions Judge Solapur.
- (c) Order dictated by P.O. on : 27/02/2026
- (d) Order signed by P.O. on : 27/02/2026
- (e) Order uploaded on : 27/02/2026