

COMMON ORDER BELOW EXH. 51 AND 52

(Passed on 17th August, 2024)

The application (Exh.51) is filed for condonation of delay of one day caused for filing these applications and for setting aside abatement order passed against defendant No. 3. The application (Exh.52) is filed for bringing LR's of deceased defendant No. 3 on record.

02. The plaintiff in both the applications made common contention that she has been residing at Ichalkaranji Tal-Hathkalangale, therefore she was unaware of death of the defendant No. 3. When she received the information about the death of the defendant No. 3, she took online search on 09.12.2022 and found that the defendant No. 3 is died on 13.09.2022. Delay of one day is caused for filing the application for setting aside abatement and bringing LR's of deceased defendant No.3 on record as the plaintiff was unaware about the fact of death of the defendant No 3.

03. The defendants failed to file say on applications (Exhs.51 and 52) therefore, no say orders dated 20.06.2024 have been passed thereon. The proposed defendant No. 3A, 3B & 3B1 are already on record as defendant Nos. 1, 5 and 5A respectively. Therefore, the notices of application (Exh.52) has been dispensed with though order dated 17.08.2024 for issuance of such notices were passed. The plaintiff has given sufficient reason for not filing the application for setting aside abatement order and application for bringing LR's of deceased defendant

No. 3 on record within time. The LR's of deceased defendant No. 3 are already on record. Therefore, right to sue survives. Considering all above aspects and grounds mentioned in application (Exhs. 51 and 52), it will be proper to pass following order:

ORDER

1. Applications (Exhs. 51 & 52) are allowed.
2. The delay caused for filing the (Exh. 51 & 52) is condoned.
3. Deemed abatement order passed against the deceased defendant No.3 is set aside.
4. As the legal heirs of deceased defendant No. 3 are already on record as defendant Nos. 1, 5 and 5A, the plaintiff is permitted to delete the name of deceased defendant No. 3 from the suit and show him as dead, as prayed in this application.
5. Plaintiff to carry out proposed amendment in the plaint within time.

Place : Solapur.
Date : 17.08.2024.

(S. D. Gawade)
3rd Jt. Civil Judge, Senior Division,
Solapur.

C E R T I F I C A T E

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

Name of the Stenographer	:	A. I. Khan (Grade-II)
Name of the Court	:	3rd Jt. Civil Judge S. D., Solapur, Dist. Solapur
Judgment/Order signed by P.O. on	:	17.08.2024
Judgment/Order Uploaded on	:	17.08.2024