

MHSO070000332017



ORDER ON EXH. 20 IN R.C.S.No.54/2017
(Passed on 06th May 2026)

1. This application is filed by applicants to condone the delay to set-aside abatement caused due to death of plaintiff No.1 namely Govind Waman Dingare. The defendants filed their say on the same application. Heard Advocate for both sides. Perused the record.

2. It is submitted by legal representatives of plaintiff No.1 that the plaintiffs have filed the present suit for perpetual injunction against defendants. During pendency of the suit the plaintiff No.1 died on 18.07.2018. The legal representatives of plaintiff had no knowledge about the proceeding. They have not intentionally delayed the proceeding. They failed to bring themselves on record within time. The suit is abated against the plaintiff. It is necessary to bring legal representatives of plaintiff on record. Therefore, they prayed to condone the delay in setting-aside abatement caused after death of plaintiff No.1. The defendants have strongly objected the application by stating that the application is false and frivolous. They have not mentioned specific reason for delay. Hence, prayed to reject the application.

3. The application is supported with an affidavit. The

suit is filed by the plaintiffs for perpetual injunction against the defendants. The death certificate of deceased plaintiff No.1 is filed on record vide Exh.27. He died on 18.07.2018. The limitation period for bringing legal representatives on record expired on 17.10.2018 and limitation period for setting-aside of abatement order expired on 17.12.2018. Present application is filed on 15.09.2025. Thus, there is delay of 06 years and 09 months.

4. Suit is filed seeking prohibitory injunction against defendants not to obstruct plaintiffs' possession over suit property. After death of plaintiff No.1 his rights in the suit property will devolve upon his legal representatives. Therefore, right to sue survives after death of plaintiff No.1. They stated that they were unaware about the pendency of the suit and they have not intentionally delayed the proceeding. However, plaintiffs No.2 and 3 were present in the proceeding. They failed to inform the Court and take legal representatives on record. The delay caused is huge of more than 06 years. However, considering the fact that rights of present applicants are involved in the suit property, it will be appropriate to give them opportunity by contesting the suit. Hence, in the interest of justice delay caused can be condoned. However, delay being of such huge period, it needs to be compensated in terms of costs. For the reasons mentioned above following order is passed.

ORDER

1. The application (Exh.20) is hereby allowed subject to costs of Rs. 3,000/- (Rs. Three Thousand Only) payable to the defendant on or before next date.
2. After payment of costs, delay caused in setting-aside abatement caused after death of plaintiff No.1 is hereby condoned.

Pandharpur.
Date : 06.05.2026.

(Smt. S.S.Raul)
Jt. Civil Judge, Junior Division,
Pandharpur, Dist.- Solapur.

Certificate

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

Name of Stenographer	:-	D.S.Landage (Grade-III)
Court	:-	Jt. Civil Court,J.D., Pandharpur.
Date	:-	06.05.2026.
Judgment/Order signed by the Presiding Officer	:-	06.05.2026.
Judgment/Order uploaded on	:-	06.05.2026.