

MHSO070000332017



**ORDER ON EXH. 22 IN R.C.S.No.54/2017**  
**(Passed on 06<sup>th</sup> May 2026)**

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

2. The legal representatives of deceased plaintiff No.1 submitted that the present suit is filed for perpetual injunction against defendants. During the 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. Therefore, they failed to bring themselves on record within time. The applicants are the legal representatives of the deceased plaintiff No.1. The deceased plaintiff had no other legal representatives. Therefore, it is necessary to bring them on record as their right to sue survives after his death. Therefore, they prayed to allow the application. The defendants have strongly objected the application by stating that the application is false and frivolous. Hence, prayed to reject the application.

3. The application is supported with an affidavit. The

death certificate of plaintiff No.1 is filed on record vide Exh.27. The suit is filed by the plaintiffs for perpetual injunction against the defendant as he allegedly obstructed possession of plaintiffs over suit property. Plaintiffs have sought prohibitory injunction not to obstruct their peaceful possession. After death of plaintiff No.1, his rights in the immovable property i.e. suit property will devolve upon his legal representatives. Therefore, after death of plaintiff No.1 right to sue survives in present applicants.

4. The death certificate of deceased plaintiff No.1 is filed on record. He died on 18.07.2018. The present application is filed on 15.09.2025. 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 to set-aside abatement caused. Vide Exh.20 delay is condoned for setting-aside abatement. Defendants have not objected the names of applicants. Applicants have stated on oath that they are the only legal representatives and there are no other persons to claim as legal representative of deceased plaintiff No.1. As right to sue survives in favour of present applicants, it is necessary to give them opportunity to contest the suit and protect their rights involved in suit property. If opportunity is not given, it will give rise to multiplicity of the proceeding.

5. However, present application is filed after lapse of

06 years 09 months. Therefore, deemed abatement caused after death of plaintiff No.1 can be set-aside by imposing costs to the present applicants and plaintiffs. Plaintiffs No.2 and 3 were present in the suit, but they failed to inform the Court and bring legal representatives of deceased plaintiff No.1 on record. This negligence on the part of plaintiffs have caused protraction in the proceeding. Hence, to set-aside deemed abatement caused, it will be appropriate to impose costs. Therefore, in the interest of justice following order is passed.

**ORDER**

1. Application at Exh.22 is allowed subject to costs
2. The abatement caused after death of plaintiff No.1 is hereby set-aside subject to costs of Rs. 3,000/- (Rs. Three Thousand Only) payable to the defendant on or before next date.
3. The plaintiffs are directed to carry out the amendment in plaint and bring legal representatives of deceased plaintiff No.1 on the record; after payment of costs as per orders below Exh.20 and 22.

**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.