

MH50070004552017



ORDER ON EXH. 57 IN R.D.No.59/2017
(Passed on 31st March 2026)

1. This application is filed by DH to set-aside abatement caused due to death of JD No.5 namely Dashrath Eknath Lohar (Kalsait). JD have not filed their say. Therefore, the application is proceeded without their say. Heard Advocate for DH. Perused the record.

2. It is submitted by DH that during the proceeding JD No.5 died on 05.11.2022. From bailiff report they got knowledge about death of JD No.5. The deceased JD No.5 is resided at village Zare, Tal. Karmala. He could not collect documents and necessary information about his legal representatives. Therefore, he failed to bring legal representatives of deceased JD No.5 on record within time. Therefore, the proceeding is abated against the JD No.5. It is necessary to bring all legal representatives of JD No.5 on record.

3. The application is supported with an affidavit. The execution proceeding is filed by the DH for execution of decree passed in R.C.S.No.83/2012. The DH has filed death certificate of JD No.5 alongwith Exh.56. The JD No.5 died on 05.11.2022. The limitation period for bringing legal representatives on record expired on 04.02.2023 and limitation period for setting-aside of abatement order expired on 04.04.2023. Present

application is filed on 20.01.2026. Thus, there is delay of 02 years 09 months and 16 days to set-aside abatement caused. After death of JD No.5 right to sue survives. The execution petition is for specific performance of agreement. All defendants/JD are directed to execute sale-deed in favour of plaintiff/DH. Therefore, it will be appropriate to set-aside abatement. Due to inaction on the part of DH the proceeding is protracted and delayed. However, other JD have not contested the present application. Therefore, no prejudice has been caused to them. Thus, there is no need to impose any costs. For the reasons mentioned above following order is passed.

ORDER

The application (Exh.57) is hereby allowed and abatement caused after death of JD No.5 is hereby set-aside.

Pandharpur.
Date : 31.03.2026.

(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	:-	31.03.2026.
Judgment/Order signed by the Presiding Officer	:-	31.03.2026.
Judgment/Order uploaded on	:-	31.03.2026.