

Order Below Exh-28

The plaintiffs have filed the present application seeking permission to set aside abatement against deceased defendant No.1 and condonation of delay caused for bringing legal heirs on record of deceased defendant No.1 Arjun Shamrao Bahire, who is died on 03.02.2022. It is the contention of the plaintiffs that as they have not gained knowledge about the death of defendant No.1, they could not brought legal heirs of defendant No.1 on record within time and delay of 15 months and 10 days is caused, suit is abated against defendant No.1 technically. Hence they prayed for allowing the application. The plaintiff No.2 has filed their affidavit at Exh.29 to support the present application.

2. The say is filed by defendant below application and resisted it on the ground that the reasons are not proper and hence they prayed for rejecting application.

3. Heard both sides. Perused the application and say. The present application is filed on 07.09.2023. The defendant No.1 is died on 03.02.2022. It seems that there is delay caused in filing the present application. The defendants have not disputed the date and death of defendant No.1 in their say or orally. The rights of the parties are involved in the present suit. To avoid further multiplicity of proceeding the application needs to be

allowed. As the plaintiffs consumed much time in filing the present application, and caused delay. The delay caused can be compensated by imposing proper costs. Hence, I pass the following order :

-: ORDER :-

1. The application is allowed subject to payment of costs of Rs.1000/- (Rs. One Thousand Only) to be paid to defendant on or before next date.
2. The abatement against deceased defendant No.1 is hereby set aside and delay caused for bringing legal heirs of deceased defendant No.1 is condoned after payment of costs.

[M.R. Kamat]

Date : 10.11.2023.

Jt. C.J.J.D., Pandharpur.

Certificate

- (a) Name of the Stenographer : Rajiv M. Gogi
- (b) Court. : Jt. C.J.J.D., Pandharpur
- (c) Date of order : 18.11.2023