

ORDER BELOW EXH.NO.23

The present application is filed for setting-aside the abatement and to condone the delay caused for bringing the legal heirs of deceased defendant No. 1 Hanumant Shankar Bhakare on record. Perused the application.

2. Read the application and say. Heard for both the sides at considerable length. Perused the record. Defendant No. 1 Hanumant Shankar Bhakare passed away on 23/02/2021 and till filing of application approximately 3 years 9 months are elapsed. Plaintiff is illiterate and old aged and due to lack of necessary documents, there is quit delay for substitution of legal heirs within stipulated period. Accordingly, he prayed for condonation of delay and for substituting legal heirs of deceased defendant No. 1 Hanumant Shankar Bhakare on record.

3. Considering the reasons mentioned in the application and documents filed on record, in the interest of justice, it will be proper to allow the present application, as the right to sue survives. Therefore, in order to avoid technical difficulties and unnecessary harassment to the parties and to prevent the multiplicity of proceeding, the present application deserves to be allowed. Furthermore, no prejudice would occasion to the other side, if the application is allowed. As far as, question of delay is concerned, it can be compensated by awarding costs to defendant. In the result, following order is passed :

ORDER

- 1] Application is allowed, subject to cost of Rs.1000/- (Rs.One Thousand Only). Delay is condoned and abatement for bringing the L.R.'s of deceased defendant No. 1 Hanumant Shankar Bhakare on record is set-aside. Cost be given to defendant.

Date : 24/07/2025

(Aaditya A. Vyas)
2nd Jt. Civil Judge Junior Division,
Malshiras, Dist. Solapur

ORDER BELOW EXH.NO.25

The plaintiff has filed the application for substituting legal heirs of deceased defendant No. 1 Hanumant Shankar Bhakare. Admittedly, the abatement caused for substituting the legal heirs of defendant is set aside, so also delay caused for the same is also condoned subject to costs.

[2] Read the application and say. Heard for both the sides. Perused the record. The plaintiff has claimed that, for substituting legal heirs of deceased defendant No. 1 Hanumant Shankar Bhakare, the present application is filed with the prayer of consequential amendment in the plaint.

[3] As the suit is for partition, it needs to substitute the legal heirs of deceased defendant No. 1 Hanumant Shankar Bhakare, so as to avoid multiplicity of proceeding and to decide rights of all the parties in the same suit, it would be just and proper to permit the plaintiff to substitute legal heirs of the deceased defendant No. 1 Hanumant Shankar Bhakare. As far as, question of delay is concerned, it can be compensated by awarding costs to defendant. Hence, the following order:

ORDER

- [1] Application at Exh.25 is allowed, subject to cost of Rs.1000/- (Rs. One Thousand Only). The plaintiff is permitted to bring legal heirs of deceased defendant No. 1 Hanumant Shankar Bhakare on record and they are further permitted to write the word 'deceased' after the name of defendant No. 1.
- [2] The plaintiff is directed to carry out the necessary amendment below Exh.1.

Date : 24/07/2025

(Aaditya A. Vyas)
2nd Jt. Civil Judge Junior Division,
Malshiras, Dist. Solapur.

C E R T I F I C A T E

I affirm that the contents of this PDF file Judgment/Order is same word to word as per the original Judgment/order :-

- (a) Name of the Stenographer :- S. T. Korbu
- (b) Court :- 2nd Jt. Civil Judge Junior Division
and Judicial Magistrate First Class,
Malshiras.
- (c) Judgment/Order signed
by PO on :- 24/07/2025.
- (d) Judgment/Order uploaded
on :- 24/07/2025.