

ORDER BELOW (EXH.42) IN R.C.S.No.706/13

Plaintiffs have filed the present application to condone the delay, to set aside the deemed abatement and to allow them to bring legal representatives of defendant No.5.

02. It is asserted that defendant No.5 died on 19.11.2014. It is necessary to bring her legal representative on record. Persons named in the application are her legal representatives. Legal representatives are required to be brought on record within 90 days from the date of death. However, due to inadvertence they were not brought on record within the stipulated time. Hence, the application.

03. Other defendants have filed the say and opposed the application contending that the application is not filed within the stipulated time. They have, therefore, prayed for rejecting the application. Ultimately, they have for awarding costs to them while allowing the application.

04. Perused the record and proceeding. Defendant No.5 died on 19.11.2014. Present application was filed on 30.06.2015. An application to set aside the abatement has to be filed within a period of 60 days after the expiry of 90 days from the death of the party to the suit. Admittedly, present application was filed after the expiry of the period of said 60 days. Reason of inadvertence was given for not taking steps within the stipulated time. It appears to be probable. It is pertinent to note that there is no inordinate delay. It is necessary to note there that there is no dispute that the persons named in the application are the legal representative of

deceased defendant No.5. Hence, the application is allowed. Delay is condoned. Deemed abatement is set aside. Plaintiffs are permitted to bring the legal representatives of defendant No.5 on record subject to costs of Rs.300/- to be paid to other defendants on or before next date.

Date: 27.02.2017.

(S.K. Khan)
Jt. Civil Judge (J.D.),
Barshi.

CERTIFICATE

I affirm that the contents of this P.D.F. file order are same word to word as per original order.

Name of Stenographer	:	Bhaskar G.B.
Court Name	:	S.K.Khan, Jt.C.J.J.D.& J.M.F.C. Barshi.
Date	:	27.02.2017
Judgment signed by the presiding officer on	:	27.02.2017
Judgment uploaded on	:	27.02.2017