

**ORDER BELOW EXH. 11**

This is an application filed by the plaintiffs for consequent setting aside abatement order against Defendant No. 03.

2. The plaintiffs have contended in the application that, defendant no. 03 Govind Ananta Jagtap died on 25/08/2024 in village Kurdu, Tal. Madha. There is a provision to add legal heirs of deceased within 90 days. However, plaintiffs could not get the death certificate of deceased defendant no. 03 within time, so, plaintiffs could not bring the legal heirs of deceased on record within 90 days from the death of defendant no. 03 on 25/08/2024. The delay was not on purpose. Hence, they prayed to set aside the abatement against the defendant no. 03.

3. Defendant No. 01 has objected the application stating that, the application is false and unlawful. The application is not within limitation. Therefore, they prayed to reject the application.

4. Perused the application, supporting affidavit and say. Heard both the sides. On perusal of record, it appears that, the defendant no. 03 Govind died on 25/08/2024. The Death Certificate of defendant no. 03 filed vide list at Exh. 16 which reflects the same. The present suit is filed for measurement and fixation of boundaries and removal of encroachment. Right to defend still survives. It would be necessary to set aside abatement against defendant no. 03. The delay can be compensated by imposing costs on plaintiffs. Hence, I pass the following order -

## **ORDER**

1.	Application is allowed.
2.	The abatement against defendant no. 03 is set aside subject to payment of costs of Rs.200/- payable by plaintiffs to defendants.

Date - 29/01/2025

**(Shubham G. Laturiya)**  
4<sup>th</sup> Jt. C.J.J.D., Madha  
J.O. Code:-MH03297

**CERTIFICATE**

I affirm that, the contents of this P.D.F. file  
Order/Judgment is same word to word, as per the original  
order/judgment.

Name of Stenographer	:	M.P.Dixit Grade-3
Court Name	:	4 <sup>th</sup> Jt. C.J.J.D. & J.M.F.C., Madha.
Order/Judgment signed by the Presiding Officer on	:	29/01/2025
Order/Judgment uploaded on	:	30/01/2025