

ORDER BELOW EXH. NO. 28 IN R.C.S. No. 30/2023
(Bandu Tamboli and Ors. Vs. Kallappa Annappa Mhetre)

Plaintiffs/original defendants have filed the application for setting-aside abatement of deceased original defendant. Called say of original plaintiff/defendant.

[2] As per the contention in application, original plaintiff has filed suit for perpetual injunction. During the pendency of the suit, original plaintiff/defendant has been died. Plaintiffs (counter-claim) has not purposefully delayed filing the application. Due to unavailability of documents, they cannot take his legal representatives on record within stipulated period. Accordingly, they prayed for setting-aside the abatement.

[3] Original plaintiff filed his say on application and contended that, the reason mentioned in the application is not true and correct. Therefore, he prayed for rejecting the application. If application is allowed, be imposed cost on them.

[4] It seems from perusal of the record that, the suit is of the year 2023. It is also revealed that, plaintiffs(counter-claim) has caused inordinate delay for filing this application. But, it is well-settled that, the rules of procedure are intended to be a hand made to the administration of justice. A party cannot be refused just relief because of some mistake, negligence, inadvertence on his part. As the present suit is filed for perpetual injunction, the legal representatives of deceased original defendant need to be added, as a party in this suit. In view of reasons, it is necessary to set-aside the abatement. As far as, question of delay is concerned, it can be compensated by awarding costs to original defendants/plaintiffs. Hence, the following order :

ORDER

- 1] Application is hereby allowed, subject to cost of Rs.300/-.
- 2] Cost amount be given to original plaintiff till next date.
- 3] The abatement will be set-aside, after depositing of cost.

Date : 17/01/2026.

(M.S. Mali)
Jt. Civil Judge, Jr. Div., Mangalwedha

CERTIFICATE

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

(a) Name of the Stenographer : P.T. Jadhav.

(b) Name of the Court : C.J..J.D., Mangalwedha, Dist. Solapur,

(c) Order decided on : 17/01/2026

(d) Order uploaded on : 17/01/2026