

**Order below Exh. No.46 in R.C.A. No.201/2017**

*(CNR No. MHST-01-001803-2017)*

***(Parashulram Balku Dange Vs. Dwarkabai Baburao Dange)***

01. This is an application for set aside the abatement order passed against respondent No. 3 Shivaji Balwant Jadhav who expired on 13.07.2020. It is submitted that the appellant was not having knowledge about death of respondent No. 3 and therefore delay caused in bringing his LR. on record.

02. The proposed LR. of respondent No. 3 were duly served with the notice Exh. 56 but they failed to appear. Hence, the application is proceeded exparte against them by order dated 19.04.2022.

03. There is no dispute about the death of respondent No. 3, the proposed LR. have also not disputed that the appellant was having knowledge about his death. Therefore, the cause shown for delay is explained. Hence, it is liable to be set aside. This suit is in respect of immovable property and therefore, the appeal would not abate automatically. There is also no specific order of abatement of the appeal against respondent No. 3. Therefore, the abatement , if any, deserved to be set aside. Consequently, I pass the following order.

**ORDER**

1] The application Exhibit 46 is allowed.

2] Abatement order passed against respondent No. 3, is set aside.

**SATARA.**  
**Date :14.07.2022.**

**(P.V.Chatur)**  
**District Judge-4, Satara.**  
**(JO CODE MH00218)**