

ORDER BELOW EXH.126

Perused application and say on it. Heard learned advocates for both sides and gone through record of proceeding.

02. Defendant No. 3 and 5 are reported to be dead on 12.04.2016 and 10.06.2016. Already my learned predecessor in office by passing order below Exh. 121 has condoned the delay caused in bringing legal heirs of deceased defendants on record. The defendants have revisited the application only on the ground that contentions in application are false and frivolous and in alternative have prayed for imposing heavy costs. However, present suit is in respect of valuable immovable property. Plaintiffs are claiming partition, separate possession of suit property as well as declaration and injunction in respect of it. Defendant No. 3 is shown as member of Hindu joint family of plaintiffs and defendants. While defendant No. 5 is son of purchaser of some of the properties of Hindu joint family. So they are necessary parties. Both parties are having right and interest in the suit property. Therefore, to decide the matter on merit, and as already delay in bringing legal heirs on record has already been condoned, so it will proper to set aside the abatement order passed against the defendant No. 3 and 5. Hence, I pass following order.

ORDER

1. The application (Exh.126) is hereby allowed.
2. Costs in cause.

Date:- 23/03/2017

[Sou. V. P. Gaikwad]
Jt. Civil Judge Senior Division,
Karad.