

**ORDER BELOW EXH. 69, 71 AND 73 IN R.C.S.No. 507/2012**

01. The plaintiff has filed this applications for setting aside abatement order, condoning the delay and bringing the legal heirs on record.

02. The plaintiff submitted that the defendant nos. 22 and 24 are dead and they died during the proceedings of the case. The cause of action survives after their death. The legal heirs of defendant nos. 22 and 24 are required to be brought on record for continuation of litigation. There is some delay occurred as death certificates were unavailable. The plaintiff wants to array them on record and for that abatement is required to be set aside and delay is required to be condoned. The legal heirs of defendant nos. 22 and 24 are mentioned in the application and they are required to be brought on record.

03. The say of the other side came to be invited. The other side opposed the application and submitted that no proper reason is mentioned for the delay and setting aside abatement order. The other side prayed for rejection of application.

04. The perusal of case papers show that the defendant no. 22 and 24 are dead and they died during the pendency of the litigation. The suit is filed for partition. The parties are required to be brought on record for due adjudication. In partition suit all the heirs must be on record and on this count the applications are required to be allowed and legal heirs are required to be brought on record. The delay is required to be condoned and abatement order is required to be set aside and legal heirs written in the application vide Exh. 73 are required to be brought on record for proper adjudication. No prejudice would be occasioned if the applications are allowed. In view of abovesaid discussion I am inclined to pass following order resulting in grant of the applications.

**ORDER**

1. The applications Exh. 69, 71 and 73 are hereby allowed.
2. The delay is hereby condoned and order of abatement is hereby set aside.
3. The legal heirs of defendant nos. 22 and 24 be brought on record and suit summons be issued to them.
4. The plaint be corrected and legal heirs be incorporated in the body of the plaint.
5. The necessary corrections be carried out and corrected copy of plaint be filed.
6. The plaintiff to pay costs of Rs. 500/-to the defendants.

Karad.  
Date- 20.03.2023

( V. S. Khot )  
Civil Judge Senior Division, Karad.