

ORDER BELOW EXH. 30 IN R.C.S. NO.3/2020

The application is filed by the advocate for the plaintiff for setting aside abatement order.

2 Perused the application and say. Heard both sides. The learned advocate for defendant has objected the application on the ground that the condonation of delay application is filed on 26.08.2022, but in order to delay the matter this application filed belatedly. So, she prayed to reject the application.

3 Perusal of record it appears that date of death of plaintiff is 26.10.2020 and the application is filed on 07.01.2023 i.e that beyond the period for setting aside an abatement order as prescribed by the law of limitation.

4 The suit is for perpetual injunction. It is contention in the plaint that suit property is self acquired property of himself and defendant is obstruction his possession over the suit property.

5 The application is supported by affidavit stating that the legal representative of a deceased plaintiff has become heir by Will, therefore it is necessary to bring her on record. It is further stated that the legal representative of deceased plaintiff has no knowledge of law. Moreover, she was ill, so the suit was abated. The grounds mentioned in the application disclose that the applicant had sufficient cause which prevented her from continuing the suit and from making application for setting aside abatement. Therefore, the abatement needs to be set-aside.

6 Thus, considering all above aspects it is necessary in the interest of justice to allow the application. In result, I pass the following order.

ORDER

1. The application is allowed.
2. The abatement order deemed to be passed against the plaintiff is set-aside.

Patan
Dt. 07.01.2023

(P. D. Bhirde)
2nd Jt. Civil Judge, J.D.,Patan.