

ORDER BELOW EXH. 55 IN R.C.S. NO. 290/2012

The application is filed by the advocate for plaintiff for condoning delay for bringing the legal representatives of the deceased plaintiff no. 2.

2. It is contention in the application that the legal representatives of deceased plaintiff are residing in Mumbai, so they had no knowledge about the suit. Further, owing to non availability of requisite documents they could not give information to their advocate. Therefore, delay has been caused. If the heirs of plaintiffs are not allowed to bring them on record, it will cause irreparable loss to them. So, it is prayed to allow the application.

3. Perused the application. Heard both sides. The learned advocate for the defendant filed his say on the overleaf of the application prayed for cost.

4. As per contention in the application and document produced on record date of death of plaintiff no. 2 is 12.06.2020 and the application is filed on 08.12.2023 i.e that beyond the period for bringing legal representatives of deceased as prescribed by the law of limitation.

5. The suit is for perpetual injunction. It is contention in the plaint that the suit property is owned and possessed by the plaintiff and defendants are obstructing their possession. Perusal of record it appears that the right to sue survives.

6. As per the applicants they did not get requisite documents

within prescribed time. Further, they were unaware about the suit. So delay has been caused. The grounds mentioned in the application disclose that the applicant had sufficient cause which prevented him from making application for bringing legal representatives of deceased plaintiff no. 2 on record. Therefore, the delay needs to be condoned. At the same time, the delay caused by the applicant can not be brushed aside. So, I am imposing costs on him.

7. 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

The application is allowed subject to cost of Rs.
300/- to be paid to the defendants.

Sdxxx/-

Patan
Dt. 16.12.2023

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