



R. C. S. No. 180/2016
Manohar Patil & Ors.
-Vs.-
Damodar Patil & Ors.

COMMON ORDER BELOW EXH. 40 AND 42
(Passed on this 18th day of September, 2024)

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Read applications and say thereon. Heard Ld. Counsels for the parties at considerable length. Perused the record.

2. It is contention of applicants that plaintiff No. 1 died on 16.09.2020. After his demise they are his legal representative. But they could not bring themselves as legal representatives of plaintiff No. 1 due to pandemic situation arose out of Covid-19 and they were not aware about the pending of this suit. They also failed to receive requisite document in time. There is delay of 11 months and 22 days. They are not brought themselves as legal representatives of plaintiff No. 1 deliberately. Their presence is necessary to decide the instant suit on merit. Hence, submitted for grant of these applications.

3. On the contrary, the learned counsel for defendants submitted that applicants were well aware about bringing themselves as legal representatives of plaintiff No. 1. But they failed to bring themselves as legal representatives of plaintiff No. 1. They have filed instant applications to harass defendants. They desire to keep the instant suit pending. Hence, submitted for rejection of these applications.

4. Defendants did not dispute death of plaintiff No. 1 on 16.09.2020 and relation of applicants with him. It shows that defendants have admitted that plaintiff No. 1 died on 16.09.2020 and after his demise, applicants are his legal representatives. Defendants have disputed that despite of knowledge applicants did not bring themselves

as legal representatives of plaintiff No. 1 within statutory period. There is delay of 11 months and 22 days for bringing applicants as legal representatives of the deceased plaintiff No. 1. Applicants failed to explain day to day delay caused for bringing themselves as legal representatives of plaintiff No. 1. The reason given for these applications is not just and proper. However, right to sue survive. If these applications are allowed, no prejudice will be caused to defendants. On the contrary, if these applications are rejected it will create multiplicity of the proceedings. Therefore, instant applications need to be allowed for proper representation of plaintiff No. 1. But at the same time, some costs need to be imposed on applicants for sufferance of defendants. Hence, I pass the following order:-

ORDER

1. Applications at Exh. 40 and 42 are hereby allowed subject to costs of Rs. 1,000/- (Rs. One thousand only) payable to defendants.
2. Plaintiffs No. 2 and 3 are directed to bring legal representatives of the deceased plaintiff No. 1 by setting aside abatement by condoning delay for filing the said application on or before next date.
3. Plaintiffs No. 2 and 3 are also directed to file amended copy of the plaint on or before next date without fail.

(Dictated and pronounced in open Court.)

Palghar.

Date:- 18.09.2024

(Mahendra K. Sorte)
Jt. Civil Judge, Jr. Dn.,
Palghar.