

IN THE COURT OF PRINCIPAL DISTRICT JUDGE, WASHIM.

Order Below Exh. 24
(Dated 03/09/2024)

- 1) The present application preferred by appellant no. 3 for setting aside abatement order and condonation of delay in preferring application for setting aside abatement order and bringing LR of Tulsabai Pendharkar – respondent no. 2.
- 2) The contesting respondent no. 1 strongly opposed the application on the count that the reason mentioned is not acceptable while respondent no. 3 given no objection.
- 3) Heard Adv. Mr. C. S. Poddar for the appellants and Adv. Mr. K. P. Belokar for the contesting respondent no. 1 at length.
- 4) It is observed that the respondent no. 2 Tulsabai Pendharkar died on 31/07/2016 and her one of the LR namely Kishor Pendharkar is already on the record. It is admitted position that the present application preferred by appellants on 29/07/2024 by Sanjay Keshorao Wasamwar i.e. after span of 90 days from 31/07/2016. It is also observed that the appellant not came with the case that on which particular date he came to know about the death of respondent no. 2 Tulsabai, then there is delay of at least 7 years 9 months approximately.
- 5) It is also observed that contesting respondent no. 1 having no objection to grant the present application, but expecting cost. It is also observed that the deceased Tulsabai was close relative of the appellant/applicant Sanjay Wasamwar then knowledge of death of deceased Tulsabai is expected immediately after death of deceased. No

doubt, for technical reason, the right of appellant to lead their case can not be taken away. At the same time, inconvenience caused to respondent no. 1 due to delay in preferring present application which is not less than 7 years 9 months required to be compensated to the respondent no. 1 by imposing suitable cost.

6) The respondent no. 3 having no objection for the present application, then the respondent no. 3 is not entitled for the cost. Similarly, respondent no. 4 and 5 not appeared, hence, ex-parte hearing order was already passed against them which is in force. So that, the respondent no. 1 is only entitled to get cost from the appellant worth of Rs. 2,000/- from the applicant/appellant. Hence, the order -

ORDER

- 1) Application at Exh. 24 of the applicant/appellant is hereby allowed subject to cost of Rs. 2,000/- (Rupees two thousand only) to be paid to the respondent no. 1.
- 2) The abatement of appeal in respect of deceased respondent no. 2 is hereby set aside.
- 3) The application of appellant for bringing LR of deceased respondent no. 2 be taken on record on production of acknowledgment of cost of Rs. 2,000/- of respondent no. 1 on record.
- 4) The next date is fixed on 09/09/2024 for compliance.
- 5) Accordingly, the application is disposed of.

Washim.
Date: 03/09/2024.

(S. V. Hande)
Principal District Judge,
Washim.

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment/ Order are same word to word, as per the original judgment/order.

Name of Stenographer	:- A. W. Ajmire, Stenographer (Grade-II)
Name of Court	:- Principal District & Sessions Judge, Washim, Dist. Washim.
Date of Judgment/ Order	:- 03/09/2024
Judgment/Order signed by the Presiding Officer on	:- 03/09/2024
Judgment/Order uploaded on	:- 04/09/2024