

COMMON ORDER PASSED BELOW EXHIBIT-90 AND 91
IN Spl.C.S. No.40/2010
Sau. Jayashree Kandya & Anr Vs. Kirankumar Sarnaik & Others
(CNR No.MHWS020001952010)

the Plaintiff has filed this application below Exh.90 for setting aside abatement and for condonation of delay which is caused in bringing legal heirs of deceased defendant Nos.13, 14, 16, 19 and 20. The plaintiff has filed application below Exh.91 for bringing legal heirs of deceased defendant No.13,14, 19, 20 on record. It is submitted by the plaintiff that he came to know regarding death of defendants 13, 14, 16, 19 and 20 on 17/08/2023. He came to know the fact by reading pursis Exh.86. So he has filed application. As per the plaintiff the delay caused in bringing legal heirs is not deliberately. No relative of plaintiffs are residing in Maharashtra. The plaintiff is residing at Sagar (MP). Therefore, he has not received the information regarding the death of defendants. So, he could not file the application earlier. Hence, the plaintiff prays to condone the delay so also to set aside the abatement and for permission to bring the LRs on record.

2] Defendant No.1 has filed say. He submitted that plaintiff has not explained the delay. It is also submitted that unless notices of application served to the legal heirs application can not be considered. It is also submitted that the relatives of the plaintiff are residing at Washim. So, he has no knowledge about the death of defendants. Hence, the defendant prays to reject the application.

3] Heard both the sides. It is the contention of plaintiff that the defendant Nos. 13, 14, 16, 19 and 20 are died during the pendency of the suit and he got the knowledge about the same after filing pursis by

the defendant Exh.86. It is also submitted by the plaintiff that he is residing at Sagar(MP). So, previously he was not aware about the fact that these defendants are no more. Admittedly, the plaintiff's address which is mentioned in title page of the plaint is Sagar (MP). Therefore, considering this fact, certainly, it can be inferred that the plaintiff has got knowledge about the death of defendants after filing pursis Exh.86. Thereafter, the plaintiff has filed present application. Considering this aspect I came to the opinion that the plaintiff has sufficiently explained the delay. So far as the question of bringing of legal heirs of deceased defendants on record the plaintiff has filed present suit for cancellation of sale deed executed by defendant Nos.3 to 8 in favour of defendant Nos.1 and 2. It is the case of plaintiff that the suit properties is in possession of defendant Nos.13 to 19 and defendant No.20 claiming at the tenant therefore certainly for deciding this question legal heirs of said defendants are necessary. Hence, I came to the conclusion that the LRs of deceased defendants can be brought on record in view of order 22 Rule 4 of CPC. Hence, I pass following Order

ORDER

- 1] Application below Exh.90 and 91 are allowed.
- 2] The LRs of deceased defendant Nos.13, 14, 16, 19 and 20 are added as defendants.
- 3] The plaintiff to carry out the necessary amendment within the stipulated period.
- 4] Issue summons to added defendants on payment of process fee by the plaintiff.

Washim.
Date:- 06/10/2025.

(**S. S. Sahasrabudhe**)
Civil Judge (Sr. Div.), Washim.

C E R T I F I C A T E

I affirm that the contents of this PDF file judgment/order are same word to word, as per original judgment/order.

- 1) Name of Stenographer :- S. V. Dere (Stenographer G-III)
- 2) Name of Court :- Civil Judge (S.D.), Washim.
- 3) Date :- 06/10/2025
- 4) Order signed by the :- 06/10/2025
presiding officer on
- 5) Order uploaded on :- 08/10/2025