

ORDER BELOW EXHIBIT NO. IN R.C.S. NO. 05/2015
(Ramesh and Ors. Vs. Manorama and Ors.)

1. This is an application made by applicant/plaintiff no.1 to set aside of abatement of deceased defendant no.1 Manorma and to bring legal representatives of defendant no.1. But the Non-applicants strongly opposed the application vide their say.
2. Heard. Read the application and say. Perused the record and proceeding. I have also gone through the relevant provisions of the Code of Civil Procedure and the Limitation Act, 1963. This is a cancellation of sale deed and partition.
3. The deceased defendant no.1 is reported to have died on 19/05/2023. She is survived by 1A) Vijaya Shaligram Raut, 1B) Chhaya Shaligram Raut. They are the legal heirs of deceased defendant no.1. The right to sue, therefore, survives. However, the applicant neither brought L.R.'s on record within 90 days from the date of death of defendant no.1 nor filed an application for setting-aside his abatement within 60 days from the date of abatement. The application is automatically abated against deceased defendant no.1. There is delay to file application for setting-aside abatement of defendant no.1. But in view of order passed below Exh. 59, the said delay has been condoned.
4. The applicant contended that he could not bring L.R.'s of deceased defendant no.1 on record and set-aside abatement of deceased defendant no.1 within limitation due to advocate for defendants not communicated death of said deceased to the plaintiffs. The application is supported by an affidavit. Hence, it is well settled that opportunity of

natural justice should be given to everyone. In view of this, an opportunity is required to be given to applicant. In order to enable the Court to effectively and completely adjudicate upon and settle all the questions involved in the suit, it is necessary to set-aside abatement.

5. In view of this, it is necessary to allow the application to bring the legal representatives of deceased defendant no.1 on record. Hence, the following order is passed.

ORDER

1. The application is allowed.
2. The abatement of defendant no.1 is hereby set aside.
3. The applicant is permitted to bring legal representatives of deceased defendant no.1 on record of the plaint within 14 days from the date of this order.
4. The plaintiffs to carry out amendment and file amended plaint within prescribed period.

Date- 23/12/2024

Sd/-
(Khwaja C. Kalal)
Jt. C.J.J.D. Mangrulpir
Tal. Mangrulpir, Dist.Washim.

CERTIFICATE

“ I affirm that the contents of this P.D.F. file order are same word for word as per original order.”

Name of Steno : Shri. Gadge C.R.(Grade – III)
Court Name : Shri. Khwaja C. Kalal,
Jt. C.J.J.D. & J.M.F.C., Mangrulpir
Date of Order : 23/12/2024
Order signed by presiding : 23/12/2024
officer on
Order uploaded on : 24/12/2024