

RDER BELOW EXHIBIT NO. 33 IN R.C.S. NO. 49/2020

(Sangita and others Vs. Battashibai and others.)

1. This is an application made by applicant/ plaintiff no.1 to set-aside abatement of deceased defendant no.1 viz. Battashibai Vishram Chavhan. But the Non-applicants / defendants 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 suit for permanent injunction.

3. The deceased defendant no.1 is reported to have died on 31/01/2021. He is survived by 1) Babybai Shriram Rathod 2) Sumitra Ranjit Rathod 3) Ranjana Babarao Rathod and 4) Suman Motiram Rathod. Plaintiff nos.1 to 4 and Defendant nos. 2 and 3 are already on record. 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 suit 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. 32, 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 no communication between plaintiffs and their advocate. 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.

Mangrulpir
Date- 10/11/2025

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 :- Shri. S. S. Rathod (Jr. Clerk)

Court Name :- Shri. Khwaja C. Kalal,
Jt. C.J.J.D. & J.M.F.C., Mangrulpir.

Date of Order :- 10/11/2025

Order signed by presiding officer on :- 10/11/2025

Order uploaded on :- 11/11/2025