

MHWS100014682014



ORDER BELOW EXH.38 IN R.C.S. NO.25/2020

Madan Sitaram Lade Vs. Bhagwan Pralhad Lade

Passed on 01st August, 2024

01. By filing present application the legal representatives of plaintiff No.2 is seeking permission to bring them on record. The legal representatives of plaintiff No.2 filed the application for condonation of delay of five months.

02. Perused the application and say. Application is supported by the affidavit.

03. Defendant has filed his say at Exh.39 wherein he has opposed the application on the ground that, the application is filed on false ground. The plaintiffs are real brothers. Therefore, they have knowledge about the death of plaintiff No.2. Intentionally they have not filed the application for bringing them as legal representatives of record. Hence, prayed to reject the application.

04. The legal representatives of the plaintiff have filed the death certificate of plaintiff No.2 on record. Perusal of the same shows that, plaintiff No.2 had died on 02.02.2023. The application has to file within 90 days from the date of death. The reasons mentioned in the application is that due to the sudden demise of plaintiff No.2 therefore, they have not filed the application within limitation. Perusal of the record shows that, after the death of plaintiff No.2, the application below Exhibit 05 is decided. However, at the time of deciding the application below Exhibit 05, the other

plaintiffs have not brought on record the death certificate of deceased plaintiff No.2. Now, the matter is for settlement of issues. The suit is filed for claiming injunction. The death of plaintiff No.2 is not disputed. The legal representatives of plaintiff No.2 are also not disputed. Therefore, opportunity needs to be given to the legal representatives of plaintiff No.2. The delay caused can be compensated by imposing costs on the legal representatives of plaintiff No.2. Whether right to sue survive will decide after compliance of this order. In view of the above discussion, following order is passed :-

ORDER

1. Application is allowed.
 2. The delay of five months is hereby condoned subject to cost of Rs.500/- (In word Five Hundred Rupees only).
 3. Cost be paid to the defendant.
 4. Cost is condition precedent.
- (Dictated and pronounced in open Court)

Place : Malegaon
Date : 01.08.2024

[Pravin U.Kulkarni]
Jt. Civil Judge (J.D.) Malegaon
Dist. Washim

CERTIFICATE

I affirm that the contents of this P.D.F file Order is same word to word, as per the original Order.

Name of Stenographer : **Shivam B. Patange (L.G.)**

Name of Court : Jt. C.J.J.D. and J.M.F.C., Malegaon.

Date of Order : 01.08.2024

Order Signed by : 02.08.2024

Presiding Officer on

Order Uploaded on : 02.08.2024