

MHYA210002192019



ORDER BELOW EXH.26
(Passed on 17/01/2026)

01. This is an application filed by the plaintiffs for delay condonation.

02. It is contended by the plaintiffs that, during the pendency of present suit, plaintiff No.2/Rukhmabai Vithoba Awari is died on 16/11/2021. Prior to her death, she executed notarized Will Deed dated 06/01/2021 and thereby, bequeathed her share in the suit property in favour of her grand-son namely Mahesh Awari. The present application had to be filed within 90 days. However, plaintiff No.1 is old age person and have no knowledge of legal procedure. Therefore, the delay of 23 days is caused in bringing Lrs of deceased plaintiff No.2/Rukhmabai on record. The said delay is not intentional. Therefore, it is necessary to condone delay in bringing the LR's of deceased plaintiff No.2/Rukhmabai on record. Lastly, they prayed to allow the application.

03. The defendants failed to file reply. Therefore, the application is proceeded without their reply. The proposed Lrs of plaintiff No.2/Rukhmabai is filed reply and have no objection to allow the application.

04. Heard learned advocate for the plaintiffs. He submitted as per the averments of the application. On perusal of application, it appears that the present application is supported by affidavit. The plaintiff filed on record copy of death certificate and Will Deed executed by deceased plaintiff No.2/Rukhmabai. It appears that,

deceased plaintiff No.2/Rukhmabai is died on 16/11/2021. The LR's of deceased plaintiff No.2/Rukhmabai were to be brought on record within 90 days. However, the present application on 11/03/2022. Therefore, there is a delay of 23 days in bringing Lrs on record.

05. It appears that, plaintiff No.1 is old age person. He is also a layman. He has no knowledge about the legal procedure. Therefore, the delay on the part of plaintiffs appears to be unintentional. Needless to say that, the condonation of delay is procedural aspect. The Court needs to take liberal approach in respect of the same. Moreover, if the application is allowed, no prejudice will be caused to the defendants. In such circumstances, it is just and proper to condone delay and setting aside abatement. Hence, considering the above findings I pass the following order,

ORDER

- 1] The application is allowed subject to cost of Rs.500/- to be paid to the Taluka Legal Aid Committee, Wani.
- 2] The delay of 23 days is hereby condoned subject to payment of aforesaid cost.

Date: 17/01/2026.

(Shahaji D. Bhosale)
Jt.Civil Judge (Jr.Dn.), Wani