



CNR No.MHYA210012572015

Order below Exh.24.
(Passed on 04.03.2025)

01. This is an application filed by the for setting aside the abatement.

02. It is contended by the plaintiff that, on 12.10.2022 defendant No.7 Parbata Pidurkar is died. However, due to the legal illiteracy, the plaintiffs have not filed the application to bring on record legal heirs of deceased defendant No.7 within limitation period. Therefore, the suit is abated against defendant No.7. The said order is needs to be set aside. Therefore, they prayed to allow the application.

03. The defendants failed to file reply. Heard learned advocate for the plaintiffs. She submitted as per the averments of the application. On perusal of application, it appears that the present application is supported by affidavit. Defendant No.7 Parbata Pidurkar is died on 12.10.2022. The present application is filed on 27.02.2023. It means that, the suit is abated.

04. The present suit is for partition and separate possession in respect of immovable property. Therefore, right to sue still survive against legal representative of deceased defendant No.7. Needless to say that the fact of setting aside abatement order 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



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just and proper to set aside the abatement. Hence, considering the above findings I pass the following order,

ORDER

- 01] The application is allowed.
- 2] The abatement is set aside subject to payment of Rs.300/- to be paid to the defendants.

Date: 04.03.2025

(Shahaji D. Bhosale)
Civil Judge Jr.Div, Wani



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Certificate

I, Abhay Pramod Bhoyar, Stenographar, J.M.F.C.
Wani, Tq.Wani, Distt.Yavatmal, affirm that, the contents of this
PDF are same words forwards, as per the original Order.