

MHYA210010882020



ORDER BELOW EXH.46
(Passed on 12/01/2026)

01. This is an application filed by the plaintiffs for delay condonation and setting aside abatement.

02. It is contended by the plaintiffs that, during the pendency of present suit, defendant No.14/Nirmala Balaji Nande is died on 16/04/2021. However, the plaintiffs did not get its information. Therefore, the plaintiffs could not bring the LR's of deceased defendant No.14 within time. The plaintiff knew the said fact on 04/11/2025 when the summons report of the same is filed on record by Bailiff at Exh.45. There is a delay of 4 Years 8 Months in bringing LR's of deceased defendant No.14 on record. The delay is not intentional. Therefore, it is necessary to set aside the abatement and condonation of delay in bringing the LR's of deceased defendant No.14 on record. Lastly, they prayed to allow the application.

03. The defendants failed to file reply. Therefore, the application is proceeded without their reply.

04. 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. It appears that, this Court issued summons to defendant No.14. However, she is reported to be died on 06/04/2021. The LR's of deceased defendant No.14 were to be brought on record within 90 days. However, the plaintiffs failed to do so. Therefore, the suit is formally abated against deceased defendant No.14.

05. It appears that, the plaintiffs have no knowledge about the death of deceased defendant No.14. The said fact came to the knowledge of plaintiff as well as Court after summons report filed at Exh.45. Therefore, the delay seems to be unintentional. Needless to say that, the condonation of delay and setting aside abatement 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.
- 2] The delay of 4 Years 8 Months is hereby condoned.
- 3] The abatement is set aside.

Date: 12/01/2026.

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