

MHHI020006832022



ORDER BELOW EXH.31,IN L.A.R. NO.40/2022
[Nandkishor Versus State and others]

By this application, petitioners have requested for permission to bring legal representatives of deceased petitioner No.1 on record. Read application and say filed by respondents. Perused record and heard both sides.

2. According to petitioners, matter is for compensation of acquired land. During pendency of matter, petitioner No.1 is died on 01.07.2023. Dispute is regarding compensation of acquired land. Any decision in the matter will affect to the right of petitioners. In order to decide matter on merit, it is necessary to bring legal representatives of deceased petitioner No.1 on record. Hence, requested to allow the application.

3. In support of contention, petitioners have relied on **Harishbhai Umedbhai Patel versus Raojibhai Ambalal Patel, C/CA/ 5978/2016**. In that case, Hon'ble High Court allowed the application filed under section 5 of the Limitation Act by condoning the delay of 4361 days and set aside the abatement. In this case, there is no abatement of petition. So, for want of identical facts and circumstances, said authority is not squarely applicable to the case in hand.

4. On the other hand, respondents have objected to the application. They have denied all the adverse contentions raised in application. They contended that there is delay in filing application. Application is silent about reason for delay. Petitioners have not filed legal heirship certificate in support of their contention. Hence, urged to reject the application.

5. Record shows that, petition is filed under section 18 of Land Acquisition Act for enhancement of compensation of acquired land. Copy of death certificate shows that petitioner No.1 Nandkishor Jaiswal died on 01.07.2023. Present application is filed on 27.01.2026. One of the legal heir of deceased petitioner No.1 i.e. son is already party in the capacity of petitioner No.2. So, the question of abatement of petition does not arise. Trial has not commenced. Application is supported with an affidavit. There is no presumption that delay in filing application is intentional. Considering reason mentioned in application and to decide matter on merit and also in the interest of justice, it will be just and proper to bring legal representatives of deceased petitioner No.1 on record. Consequently, application deserves to be allowed.

6. However, it cannot be overlooked that petitioner No.1 died on 01.07.2023. Present application is filed on 27.01.2026. The son of deceased petitioner No.1 is party as petitioner No.2. So, the legal heirs of petitioner No.1 have knowledge about the proceeding since beginning. The conduct of petitioners shows that they are not diligent in pursuing the matter. In such situation, it will be just and proper to impose costs. Hence, following order.

Order

1. Application Exh.31 is allowed subject to the costs of Rs. 5,000/- to the Taluka Legal Services Authority, Hingoli.
2. On payment of costs, petitioners are permitted to bring legal representatives of deceased petitioner No.1 on record as prayed.

Date :- 13/08/2026.

[V. M. Mankhair]
Civil Judge Senior Division
Hingoli.

CERTIFICATE

I affirm that the contents of this P.D.F file order is same word for word as per original order.

Name of Steno	:-	Sanjay A.Ukalkar
Court Name	:-	V. M. Mankhair Civil Judge, Senior Division, Hingoli
Date of order	:-	13/08/2026.
Order signed by the Presiding Officer	:-	13/08/2026.
Order Uploaded on	:-	13/08/2026.