

IN THE COURT OF SMALL CAUSES AT MUMBAI



ORDER BELOW EXHIBIT – 19

IN

R.A.E. & R SUIT NO. 361 OF 2021

[C.N.R. No. MHSCA20009532020]

1. Mr. George Thomas D souza and ors.Plaintiffs

Versus

Mr. Rilesh Panachand Dedhia and orsDefendants

**Coram : A. H. Baig
Judge, C. R. No. 9**

Date : 18/09/2024

: O R D E R :

This is an application filed by the plaintiff for bringing legal heirs of deceased plaintiff No.3 on record by way of proposed amendment by setting aside abatement and condoning the delay.

2. It is contended in the application that plaintiff No.3 expired on 10/07/2024. Respondents are the legal heirs of deceased plaintiff No.3. Plaintiff No.1(a) is also expired on 09/03/2024 all of sudden. Plaintiff No.1(a)'s legal heirs are already on record and her name is only to be deleted. Plaintiff intends to delete the name of plaintiff No.1(a) and to bring respondents as legal heirs and legal representatives of plaintiff No.3. The fact of death was not informed to the advocate

inadvertently. The delay is required to be condoned. If delay is not condoned, plaintiff would suffer serious injury and loss. Hence, it is prayed that application be allowed by condoning delay and setting aside abatement.

3. Defendants have taken strong objection. They have submitted that plaintiffs have failed to give sufficient cause to condone the delay. Hence, application cannot be accepted. They have prayed for rejecting the same.

4. I have heard both the learned advocates at length. The proposed amendment is only to delete the names of plaintiff No.1(a) and 3 from cause title and to bring heirs of deceased plaintiff No.3 on record as plaintiff No.3(a) and 3(b) as per schedule. Other amendment in the pleadings is only consequential in nature. The plaintiff has filed death certificate of plaintiffs No.1(a) and 3. Reason for delay appears to be just and satisfactory. Cause of action survives for heirs of deceased plaintiff alongwith other plaintiffs against defendants. The amendment in the plaint appears to be necessary, in view of the death of two plaintiffs. Hence, I hold that application deserves to be allowed by condoning delay and setting aside abatement. Accordingly, I hold that present application deserves to be allowed. Hence, the order :

: ORDER :

1. The application is allowed.
2. The delay in filing the present application is condoned.

3. Abatement of suit of plaintiffs No.1(a) and 3 is set aside.
4. Plaintiffs are permitted to carry out amendment as per schedule within 14 days from the date of this order.

Date : 18/09/2024
Mumbai

Dictated On : 18/09/2024
Transcribed on : 18/09/2024
Checked and signed on : 19/09/2024

(A. H.Baig)
Judge, C.R. No. 09