

A.Nos.3577 and 3624 of 2021

in C.S No.95 of 2019

DR.G.JAYACHANDRAN, J.

The sole plaintiff W.S.Sethu Narayana Babu died on 13.03.2021. However, due to the pandemic situation, it is stated in the affidavit that the legal representatives of the deceased sole plaintiff would not take steps to step into the shoes of the deceased plaintiff. On the lapse of 30th day from the plaintiff's death, the suit was abated. Hence, the prayer is made to set aside the abatement caused due to the death of the sole plaintiff and to bring the legal representatives of the sole plaintiff on record as plaintiffs 2 to 5.

2. Learned counsel appearing for the defendant submitted that the applicants have not taken out the application to condone the delay in filing this application. Since on the lapse of 90th day, the limitation to file application to set aside the abatement expires, without application to condone the delay, the application to set aside the abatement cannot be entertained.

3. In response to the above submission, the learned counsel for the applicant/plaintiff submitted that due to the order passed by the Supreme Court in Suo Motu Writ Petition (Civil) No.3 of 2020, the limitation

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period during the pandemic period between 15.03.2020 and 14.03.2021 has to be excluded.

4.As far as this case is concerned, the sole plaintiff died during the pandemic period and moratorium period, the question of limitation and delay application will not arise. The court is in full agreement with the submission made by the learned counsel for the applicant/plaintiff. Hence, the abatement caused due to the death of the sole plaintiff is set aside and application to bring the legal representatives of the sole plaintiff is allowed.

5. Registry is directed to carry out the necessary amendment. Learned counsel for the plaintiff is directed to file amended plaint copy by 11.11.2021.

Post the suit on **12.11.2021** for further proceedings.

06.10.2021

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