

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

Office Memoranda of appearance, directions and orders.	Notes, of Court's orders and Registrar's	Office Coram,	Court's or Judge's orders.
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CIVIL APPLICATION NO. 2586 OF 2015
IN WP/2692/1991 WITH CA/2587/2015 IN WP/2692/1991
WITH CA/2588/2015 IN WP/2692/1991

LATIF KHAN RASHID KHAN MUSALMAN, LR HAYAT KHAN
LATIF KHAN PATHAN
VERSUS
SHANKAR SITARAM SETH SHIMPI, LRS SAROJ SURESH
BHANDARKAR AND OTHERS

...
Advocate for Applicant : Mr. Pathan Zareef Khan And Faij Khan
Advocate for Respondent: Mr. R. M. Deshmukh, Advocate
h/f Mr. K. G. Navandar.

CORAM: N. W. SAMBRE, J.
DATED: 20th APRIL, 2015.

PER COURT:

1. This is application praying condonation of delay of 1339 days caused in preferring a prayer for restoration of the writ petition.
2. Shri Pathan, the learned counsel for the Applicant-petitioner would strenuously urge that the fact about filing of the writ petition and the subsequent

developments for bringing legal heirs on record was not within the knowledge of the applicant. According to him, though the original landlord expired on 17th February, 1996, the said fact came to the knowledge for the first time when this Court granted two weeks time for bringing legal heirs of the said respondent landlord on record on 5th January, 2010. Shri Pathan would further urge that the earlier counsel who was appearing has expired and as such there was no intimation for taking steps for complying with the formalities required. According to him, the delay caused is unintentional and bonafide and be condoned by ordering restoration of writ petition.

3. The learned counsel for Respondent would urge that the proceedings are arising out of landlord-tenant dispute. According to him, it is hard to digest that the applicant who is of 48 years of age was unaware about filing of the petition in relation to a house in which he himself is residing. According to him, the expiry of landlord Shankar on 17th February, 1996 was well within the knowledge as is apparent from the above referred order of this Court dated 5th January, 2010. In addition

to above, he would urge that the original tenant Latif expired on 6th May, 2011, inspite of the same no steps were taken for bringing his legal heirs on record. The learned counsel for the non-applicant would urge that a statement is made in the application itself only upon the filing of execution proceeding the applicant has taken out steps for restoration of the petition which according to him is malafide.

4. The original landlord Shankar, who is respondent in the writ petition, expired on 17th February, 1996, the date on which the present applicant was of the age of around 26-28 years. His father Latif expired on 7th October, 2010 and the matter stood abated on 6th May, 2011 as per the orders of this Court.

5. From the very conduct of the present applicant it is noted that though he is staying in the tenanted premises, he was not aware about death of his landlord submission which is hard to digest.

6. The Court inspite of the above referred fact during the hearing of the petition granted time to bring on record the legal heirs as is apparent from the order dated 5th January, 2010. For last four years the

applicant has neither taken any steps to bring the legal heirs of applicant or the respondent on record nor for setting aside abatement. So far as bringing legal heirs of Respondent-landlord on record is concerned, his date of death is 17th February, 1996 and going by the said date of death there is a delay of more than 15 years.

7. In that view of the matter I am of the opinion that the application is not bonafide. The same stands rejected.

8. In view of rejection of application for restoration of writ petition, all the pending civil applications stand disposed of.

[N. W. SAMBRE, J.]

Dt.20/04/2015
ans/2586