

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.**

**CIVIL APPLICATION NO. 849 OF 2015
IN
FIRST APPEAL NO. 1053 OF 1999**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. A. J. Almaida for the applicant.
None for the respondents.

**CORAM : K. K. TATED, J.
DATED : 11/06/2015.**

P.C.:

. Heard learned Counsel for the Applicant.
None for the respondents, though duly served.

2 Leave to amend.

3 This Application is preferred by the defendant for bringing legal heirs on record of deceased sole respondent plaintiff who died on 19.04.2011 i.e. during the pendency of the First Appeal.

4 The learned counsel for the applicant submits that applicants are not educated persons and had no knowledge about the procedure required for bringing legal heirs on record. He submits that in the month of December, 2014 when the applicant met the Advocate, at that time he informed the Advocate that the respondent plaintiff died on

19.04.2011 and thereafter, they preferred Civil Application .

5 The learned counsel for the applicant submits that in the interest of justice, this Hon'ble Court be pleased to allow the Civil Application by condoning the delay. He further submits that if application is not allowed, irreparable loss and injury will be caused to the applicant. Applicant has good chance of success in the present matter.

6 Considering the submissions made by the learned counsel for the Applicant and the averments made in the Application, I am satisfied that the Applicant has made out a case for allowing the present Civil Application.

7 Hence, the following order:

i) Civil Application is allowed in terms of prayer clause (a), (b) and (c) which read thus :

“a) The applicants be allowed to bring/substituted the legal heirs of deceased Respondent as mentioned in paragraph 5 above and in the title.

b) That the delay of about 1315 days in taking out this application be kindly condoned;

c) That the abatement if any of the above Appeal be set aside.”

ii) Amendment to be carried out within six weeks from today, failing which the Civil Application shall stand dismissed without further reference to

the court.

iii) If amendment is carried out within stipulated time as stated hereinabove, office is directed to issue notice to the added respondents in First Appeal no. 1053 of 1999.

iv) In addition to usual mode of service, applicant is permitted to serve added respondents in First Appeal no. 1053 of 1999 by private notice either by registered post A.D. and/or by hand delivery and file Affidavit of Service to that effect.

v) Rule made absolute accordingly.

vi) Civil application stands disposed off accordingly.

(K.K.TATED, J.)