

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

CIVIL APPLICATION NO.633/2014
IN
SECOND APPEAL NO.431/2003

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. Mahendra Agvekar i/b. Mandar Limaye for the Applicant
Mr. T. S. Ingale for the Respondent Nos.1 and 6.

CORAM : K. K. TATED, J.
DATE : OCTOBER 13, 2015

P.C.:

Heard. This application is for bringing legal heirs on record of deceased Respondent No.6 Manabai Laxman Jadhav who died on 17/09/2010

2. The learned counsel for the Applicant submits that he received letter dated 04/02/2014 from the Advocate for Respondent stating that the Respondent No.6 expired in 2010. At that time, the Applicant learnt that the Respondent No.6 expired. Hence, there is delay in making the Civil Application. The learned counsel for the Applicant submits that they have good chance of success in the matter. He submits that in the interest of

justice, this Hon'ble Court be pleased to condone the delay in making the Civil Application and allow the Applicant to bring on record the legal heirs of deceased Respondent No.6. He submits that if delay is not condoned, irreparable loss will cause to them.

3. On the other hand, the learned counsel for the legal heirs of deceased Respondent No.6 submits that he received instructions to file vakalatnama on behalf of them in Second Appeal. He submits that they have no objection if Civil Application is allowed.

4. Considering the submissions made by the learned counsel for the Applicant, the averments made in the Application and the no-objection given by the advocate for legal heirs of Respondent No.6, I am satisfied that the Applicant has made out a case for allowing the present Civil Application.

5. Hence, the following order:

- a) Abatement is set aside.
- b) Delay of 3 years and 185 days in filing the Civil Application is condoned.
- c) The Applicant is permitted to bring on record the legal heirs of deceased Respondent No.6 in the

Second Appeal and pending Civil Application, if any, within 6 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

d) If amendment is carried out within stipulated time as stated hereinabove, the Applicant is directed to serve an amended copy of the Second Appeal as well as pending Civil Application, if any, on the Advocate for the newly added Respondents, immediately thereafter.

e) The learned counsel for the legal heirs of deceased Respondent No.6 waives service in Second Appeal.

f) Civil application stands disposed off accordingly.

JUDGE