

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 438 OF 2015
IN
FIRST APPEAL NO. 1052 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. S. Nagvadaria, for the Applicant.

**CORAM: K.K.TATED, J.
DATED : 27/02/2015**

1. Heard the learned counsel Mr. S. Nagvadaria, for the Applicant.
2. Though Appellant is duly served, no one appeared on behalf of him when the matter was called out. This Application is for bringing legal heirs on record of deceased Respondent No.2. Learned counsel for the Applicant submits that notices issued to legal representative of Respondent No.2 returned unserved with the postal remark "refused to accept".
3. Considering the submission made by learned counsel for the Applicant and averments made in Civil Application, I am satisfied that Applicant has

made out case for allowing the Civil Application.
Hence the following order:

(i) Delay in preferring the Civil Application is condoned.

(ii) Abatement is set aside.

(iii) The Appellant is permitted to bring legal heirs on record of deceased Respondent No.2 in First Appeal as well as pending Civil Applications, if any, within six weeks from today failing which applicant is permitted to carry out amendment in First Appeal & pending Civil Application without referring back to the Court.

(iv) If amendment is carried out within stipulated time as stated hereinabove, Office is directed to issue notice to legal heirs of Respondent No.2 in First Appeal No. 1052 of 1999.

(v) In addition to usual mode of service, the Appellant and/or Applicant is permitted to serve the legal representative of Respondent No.2 in First Appeal No. 1052 of 1999 by way of private notice either by registered post A.D. and/or by hand delivery and to file an Affidavit of service to that effect on or before next date.

(vi) Civil Application is disposed of accordingly.

(K.K.TATED, J.)