

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

**CIVIL APPLICATION NO. 986 OF 2010
IN
SECOND APPEAL NO. 268 OF 1997**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Mr. for the applicant.

**CORAM : K. K. TATED, J.
DATED : 15/10/2015.**

P.C.:

- . Heard learned Counsel for the applicant.
- 2 None for the respondent, though duly served.
- 3 In the present proceeding, notices issued to legal heirs of deceased respondent no.6 returned unserved with bailiff remark "refused to accept". Hence, applicant preferred Civil Application No. 1853 of 2012 for substitute service. That application was on board for hearing before this Court (Coram: R. M. Savant, J) on 27.11.2012. At that time, this Court held that the service which was effected on the legal heirs of deceased respondent no.6 to be treated as good service.
- 4 This application preferred by plaintiff for bringing legal heirs on record of deceased respondent no.6 Balaram Rambhau Bhopi who died on 27.07.2007.

4 The learned Counsel for the applicant submits that respondent no.6 died during the pendency of the present second appeal and for want of knowledge, it remains on their part to prefer civil application for bringing legal heirs on record immediately.

5 The learned Counsel for the applicant submits that in the interest of justice this Hon'ble Court be pleased to condone the delay in preferring the civil application and allow the applicant to bring legal heirs on record of deceased Respondent no. 6 in second appeal and pending civil application, if any. He submits that if application is not allowed, irreparable loss will be caused to the applicant.

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

7 Hence, following order.

- a) Abatement is set aside.
- b) Delay in preferring civil application is condoned.
- c) Applicant is permitted to bring the legal heirs on record of deceased respondent no.6 in Second Appeal No. 268 of 1997 and pending civil application, if any, within 8 weeks from today,

failing which civil application shall stands dismissed without referring back to the Court.

d) If amendment is carried out within stipulated time as stated herein above, applicant is directed to serve the amended copy of Second Appeal on legal heirs or their Advocate thereafter immediately.

e) Civil application stands disposed of accordingly.

(K.K.TATED, J.)