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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1422 OF 2014
IN
APPEAL FROM ORDER NO.197 OF 2011

Chetan H. Parekh & Anr.	...Applicants
V/s.	
Navnit H. Parekh & Anr.	...Respondents

None for the Applicants.

Mr.Rahul Raut i/b M/s.N.N. Vaishnawa & Co. for the Respondent No.1.

CORAM : R.D. DHANUKA, J.
DATE : 1ST DECEMBER, 2015.

P.C. :-

1. None for the applicant. Learned counsel appearing for the original plaintiff has invited my attention to an order dated 11th June, 2014 passed by K.K. Tated, J. thereby granting four weeks time to the appellant (applicant) to take appropriate steps against the deceased respondent no.2 making it clear that in case of failure to take appropriate steps, the appeal from order shall stand abated against the respondent no.2 without further reference to Court. He submits that although the order was passed on 11th June, 2014, the civil application is filed on 18th October, 2014 i.e. beyond the period of four weeks. He submits that there is no prayer in the said civil

application for setting the abatement against the respondent no.2. He submits that since there is no prayer for setting aside the abatement, the prayer for bringing legal heirs on record of the deceased respondent no.2 cannot be granted.

2. On perusal of the order passed by K.K. Tated, J. on 11th June, 2014 is clear that the said order is self-operative and since the civil application is not filed within four weeks from the date of the said order, the appeal from order stands abated against the respondent no.2 without further reference to Court. The applicant has filed the civil application beyond a period of four weeks. In view of the conditional order passed by this Court on 11th June, 2014, the appeal from order already stands abated against the respondent no.2 in view of the applicant not complying with the said order. This civil application for bringing the legal heirs of the respondent no.2 on record therefore, does not survive and is accordingly disposed of. No order as to costs.

(R.D. DHANUKA, J.)