

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

**CIVIL APPLICATION NO.1222 OF 2015
IN
SECOND APPEAL NO.110 OF 2009**

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.VR.Kasle i/b M/s.Ram and Co. for the applicant

Mr.Rahul Walvekar for the respondent no.2

CORAM : K.K.TATED, J.
DATED : 19/08/2015

PC:

- 1 Heard the learned counsel for the parties.
- 2 This application is preferred by plaintiff for substituted service on respondent no.10 and for deleting the name of respondent no.3.
- 3 The learned counsel for the applicant submits that the respondent no.3 Mrs.Amirbi Ismail Desai died on 26.3.2013. He submits that her legal heirs are already on record. Hence, they may be permitted to delete the name of respondent no.3
- 4 The learned counsel for the applicant submits that notices issued to respondent no.10 returned unserved with bailiffs remark 'No such person is residing at the given address'. He further submits that applicant made efforts to find out the present

correct address of respondent no.10 but he could not succeed. Hence, applicant may be permitted to serve respondent no.10 by substitute service as per Order 5 Rule 20 of the Code of Civil Procedure, 1908 by public notice in two leading newspapers.

5 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. Hence, following order:

- a) Applicant is permitted to delete the name of respondent no.3 from the cause title of Appeal Memo as well as pending Civil Application if any, within six weeks from today and serve amended copy on the other side.
- b) Applicant is permitted to serve respondent no.10 by substitute service as per Order 5 Rule 20 of the Code of Civil Procedure, 1908 by publishing in two leading newspapers.
- c) Civil application stands disposed off accordingly.

(K.K.TATED, J.)