

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 31 OF 2004

Office Notes, Office Memoranda of Coram, appearance, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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CORAM : R.M. Joshi,
I/c. REGISTRAR (JUDL-II)
Date : 14/02/2017

Advocate for Appellant present.

Perused note dated 24.12.2016 submitted by Motilal & Co. Heard Ld. Advocate for the Appellant. By filing this preciepe the Appellant is seeking to set aside the order passed by the department dismissing the Appeal against Respondent Nos. 3 to 5. It is also stated therein that Respondent Nos. 3 to 5 are legal heirs of Respondent Nos. 1 and 2 who have died. The Appellant thus pray for setting aside the order of dismissal against Respondent Nos. 3 to 5 and to delete the names of Respondent Nos. 1 and 2.`

Ld. predecessor had passed order dated 13.01.2017 holding that the grievance in respect of dismissal of appeal against Respondent Nos. 1 and 2 as abated is not entertainable and only after abatement of appeal against Respondent Nos. 1 and 2, it is brought to the notice that Respondent Nos. 3 and 5 are legal representatives of Respondent Nos. 1 and 2. It is further directed therein to Appellant to take appropriate steps for setting aside abatement of appeal against Respondent Nos. 1 and 2. So far as this order is concerned, no further order can be passed as it will amount to reviewing earlier order, which is not permissible.

Hence, question of deletion of Respondent Nos. 1 and 2 now on the basis of present preceipe does

not arise. It is open for the Appellant to take appropriate steps for setting aside abatement of appeal against Respondent Nos. 1 and 2.

So far as dismissal proceeding against Respondent Nos. 3 to 5 is concerned, perusal of record shows due to death of the Advocate for the Respondents, court notice was issued to the Respondents. After bailff's report was received of said notice, the matter was placed on the Registrar's Board for taking steps against the deceased Respondent Nos. 1 and 2 and unserved Respondent Nos. 3 to 5 on 02.09.2016. Thereafter, time was granted of 3 weeks on 27.09.2016 and 29.10.2016. On these days none appeared for the Appellant. On 22.11.2016, advocate for the Appellant was present and conditional order of granting 4 weeks time to take steps against the deceased Respondent Nos. 1 and 2 and unserved Respondent Nos. 3 to 5 was passed. The noting shows that since no steps were taken by the Appellant against Respondent Nos. 3 to 5 in stipulated time, the conditional order was made effective.

In view of the above, it cannot be said that office committed any wrong in dismissing appeal against Respondent No. 3 to 5 which is done in consequence of the order passed by Registrar (Judicial-II) dated 13.01.2017.

By this preciepe the Appellant is seeking review of the order passed by the Registrar which is not permissible. However, Appellant may take appropriate steps as provided by the law against both orders.

Sd/-
Registrar (Judl.-II)

