

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

**CIVIL APPLICATION (ST). NO.16703 OF 2017
IN
SECOND APPEAL NO.686 OF 2014**

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

Mr. Bhushan Mandlik i/b Mr.S.S.Patwardhan for the applicant

Mr.Rajesh Parab for the respondent nos.1A, 1B, 1D, 1E

Mr.Rushikesh Patil i/b Mr.P.D.Dalvi for the respondent nos.9, 10, 12 and 13

CORAM : K. K. TATED, J.

DATE : DECEMBER 18, 2017

P.C.:

1. Heard the learned counsel for the parties.
2. This application is for bringing legal heirs on record of deceased Respondent nos.12, Ananda Yashwant Sutar who died on 16.11.2014.
3. The learned counsel for the Applicant submits that they have already served legal heirs of deceased Respondent no.12 by registered post A/d. He submits that he has the registered A/D acknowledgement showing that Civil Application is duly served on the other side. He undertakes to file

affidavit of service on or before 19.1.2018. Same is accepted.

4. The learned counsel for the Applicant submits that they filed present Second Appeal in the month of May 2013. He submits that during the pendency of the present Second Appeal i.e. before Admission, Respondent no.12 expired. She submits that as soon as they learnt about the death of Respondent no.12, they preferred the present Civil Application. He submits that for want of knowledge it remained on their part to take appropriate steps immediately. He submits that delay in preferring the present Civil Application be condoned. He submits that Applicant has good chance of success in the present matter.

5. Considering the submissions made by the learned counsel for the Applicant, the averments made in the Application and as inspite of service, no one appeared on behalf of legal heirs of deceased Respondent no.12, I am satisfied that the Applicant has made out a case for allowing the present Civil Application. Hence, the following order:

- a) Abatement is set aside.
- b) Delay is condoned.
- c) The Applicant is permitted to bring legal heirs on record of deceased Respondent no.12 in

Second Appeal No.686 of 2015 and pending Civil Application if any on or before 19.1.2018, failing which the Civil Application shall stand dismissed without further reference to the court.

d) If amendment is carried out within stipulated time as stated hereinabove, the Applicant is directed to serve an amended copy of the Second Appeal on the Advocate for the other side, immediately thereafter.

e) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)