

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

**CIVIL APPLICATION NO. 1864 OF 2017
IN
SECOND APPEAL NO. 260 OF 2004**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Prothonotary's orders	Court's or Judge's orders
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Mr. Satyajeet Shirke I/by Uday Warunjikar for Applicants.

Mr. Ramesh Sawant I/by S. V. Pitre for Respondent Nos. 3 & 4.

CORAM : K. K. TATED, J.

DATE : DECEMBER 14, 2017

P.C.:

1. Heard learned Counsel for parties.

2. This Application is preferred by the Applicants/Orig. Plaintiffs for abatement of Second Appeal No. 260 of 2004 as both the Appellants/Orig. Defendant Nos. 1 and 2 are expired.

3. The learned Counsel for Applicants submits that Respondent No.2/Plaintiff No.2 – Vasant Laxman Masire expired on 4th August, 2014. He submits that the learned Counsel for Respondent No. 2 by his letter dated 27th September, 2014 informed the learned Counsel for

Appellants the names and addresses of legal heirs of deceased Respondent No.2. He further submits that the learned Counsel for Applicants by his letter dated 27th September, 2014 and dated 24th June, 2017 informed to the Advocate for Appellants Mr. Uday Warunjikar that the Applicant No.1 is expired in 2016 and Applicant No.2 is expired in 2008.

4. The learned Counsel for Applicants submits that in spite of informing about the death of both the Appellants and the Respondent No.2, appropriate steps were not taken by the original Defendants for bringing the legal heirs on record. Hence, this Hon'ble Court be pleased to abate the Second Appeal.

5. The learned Counsel Mr. Satyajeet Shirke for Appellants/original Defendants seeks some time to file their affidavit in reply.

6. It is to be noted that the copy of Civil Application was duly served on the other side. In spite of that, legal heirs of Appellants/original Defendants were not brought on record.

7. Considering the submission made by the learned Counsel for Applicants and the averments made in Civil Application and as it remained on the part of the learned Counsel for Appellants/original Defendants to take appropriate steps for bringing the legal heirs of both the Appellants as well as Respondent No.2 on

record, I am satisfied that Applicants have made out a case for allowing the Civil Application. Hence, the following order.

ORDER

(A) Civil Application is allowed in terms of prayer clause (a) which read thus :

“(a) This Hon'ble Court may be pleased to hold that Second Appeal No. 260 of 2004 stands abated for not taking steps to bring on record the legal heirs of Appellants.”

(B) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)