

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

**CIVIL APPLICATION NO.1680 OF 2017
IN
SECOND APPEAL NO.145 OF 2015**

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

Mr. Vikrant A. Desai i/b Mr.S.M.Kamble for the applicant

Mr.Umesh H. Pawar for the respondent nos.2B and 2C

CORAM : K. K. TATED, J.

DATE : DECEMBER 18, 2017

P.C.:

1. Heard the learned counsel for the parties.
2. Leave to amend.
3. Amendment be carried out during the course of the day.
4. The learned counsel for the Applicant submits that as per order dated 20.11.2017 passed by this court they served legal heirs of deceased Respondent no.2a by private notice. He tendered affidavit of service dated 16.12.2017. Same is taken on record.
5. The learned counsel for the Applicant submits that Respondent nos.2a, Kalpana Babu

Mane died on 4.7.2015. He submits that they learnt about the death of Respondent nos.2a when they received letter dated 26.9.2017 from Advocate Mr.Umesh Pawar Exhibit- A. Thereafter, immediately they preferred the present Civil Application on 6.10.2017. He submits that for want of knowledge it remained on their part to take appropriate steps within stipulated time for bringing legal heirs on record of deceased Respondent nos.2a. He submits that in the interest of Justice, this Hon'ble Court be pleased to allow the Applicant to carry out amendment in Second Appeal No.145 of 2015 and pending Civil Application if any to that effect. He submits that if Civil Application is not allowed, irreparable loss and injury will be caused to the Applicant.

6. Considering the submissions made by the learned counsel for the Applicant and the averments made in the Application and as Applicant learnt about the death of Respondent no.2a when they received letter dated 26.9.2017 from Advocate Mr.Umesh Pawar, I am satisfied that the Applicant has made out a case for allowing the present Civil Application. Hence, following order:

- a) Abatement is set aside.
- b) Delay in preferring the present Civil

Application is condoned.

c) Applicant is permitted to bring legal heirs on record of deceased Respondent no.2a in Second Appeal No.145 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) Applicant to serve amended copy on the other side.

e) If amendment is carried out within stipulated time as stated hereinabove, Registry is directed to issue notice to added Respondent in Second Appeal No.145 of 2015 and pending Civil Application if any returnable after 12 weeks.

f) In addition to usual mode of service, Applicant is permitted to serve amended copy of Second Appeal and pending Civil Application on added Respondents along with entire proceedings by private notice either by registered post A.D. and/or by hand delivery and file Affidavit of Service to that effect.

g) Civil application stands disposed off accordingly.

(K.K.TATED, J.)