

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2343 OF 2014
IN
FIRST APPEAL (STAMP) NO. 30701 OF 2013
WITH
CIVIL APPLICATION NO. 2404 OF 2014
IN
FIRST APPEAL (STAMP) NO. 30701 OF 2013

The Executive Engineer
Kadawa Canal Division, Nashik .. Applicant/Appellant
vs.
The State of Maharashtra & Ors. .. Respondents

Ms Nikita Sawant i/b. Ms Bhavana Khemani for Applicant /
Appellant.
Mr. Yogesh Dabke – AGP for State.

CORAM : M. S. SONAK, J.
DATE: 14 FEBRUARY 2017

P.C :

1] On 29 July 2015, this Court made the following order :-

*“ Heard learned Counsel for the applicant and learned
AGP for the respondent no. 1/ State.*

*2. Office note shows that notice issued to respondent no.2
on 15.05.2015 is returned unserved with Bailiff's remark
“respondent no. 2 is dead since 7 to 8 years back.”*

*3. Considering this fact, twelve weeks time is granted to
the applicant to prefer an appropriate application, if they so
desire, for bringing legal heirs on record of deceased
respondent no. 2 and that application will be decided on its
own merits.*

4. Stand over by twelve weeks.”

2] Today, when the matter is called out, Ms Nikita Sawant who holds for Ms Bhavna Khemani states that last chance may be given to take steps.

3] By the aforesaid order dated 29 July 2015, twelve weeks time was granted to take steps. This has not been done. Now when the matter has come on board after about one and half years, the position remains the same. In such circumstances, no further indulgence can be granted.

4] The appeal cannot proceed only against the State of Maharashtra which has been impleaded as the first respondent. In fact, in a matter of this nature, the respondent no. 1 is only a formal appellant and the applicant / appellant has no real grievance against the respondent no. 1.

5] The appeal has already abated as against legal representatives of the respondent no. 2. Despite opportunity, no steps have been taken to bring on record the legal representatives of respondent no. 2. Accordingly, the civil application and consequently the appeal and civil application for stay are dismissed. There shall however be no order as to costs.