

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

CIVIL APPLICATION NO. 631 OF 2017

IN

WRIT PETITION NO. 3988 OF 2013

Raghunath Lakshman Satardekar (since deceased through L.Rs.)
..Vs.. Dattatray Shrinivas Pai & Ors.

Office Notes, Office Memorandum of appearances, Court's orders or directions & Registrar's orders.	Court's or Judge's orders
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Mrs. Anita Goukar I/by. P. G. Sawant for Applicant.

CORAM : K. K. TATED, J.

DATE : JULY 18, 2017.

P.C. :

. Not on board. At the request of Advocate of Applicant matter is taken on board for speaking to minutes of the order dated 4th July, 2017.

2. Heard learned Counsel for Applicant.

3. On page 2 of the order dated 4th July, 2017 in para 4 in 8th line instead of “19.9.2017” it should be “19.9.2016”.

4. Rest of the order remains as its.

5. The original order dated 4th July, 2017 stands corrected accordingly, which read thus :

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
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**CIVIL APPLICATION NO.631 OF 2017
IN
WRIT PETITION NO.3988 OF 2013**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.P.G.Sawant for the applicant
Mr.S.M.Railkar for the respondent nos.1 and 2

**CORAM : K. K. TATED, J.
DATE : JULY 4, 2017**

P.C.:

- 1 Heard the learned counsel for the parties.
- 2 This application is preferred by legal heirs of sole petitioner for bringing them on record in place of original petitioner.
- 3 The learned Counsel for Applicant submit that the original Petitioner expired on 23rd March, 2016 whereas the present Writ Petition was filed on 18th December, 2012. He submit that the matter was on board for admission on 19th September, 2016. The same was admitted by this Court. He submit that when the Advocate on record tried to contact the original Petitioner, at that time he learnt that the sole-

petitioner expired on 25th March, 2016. At the request of legal heirs of sole-petitioner, Advocate drafted the Application for bringing legal heirs on record and filed immediately before this Court on 18th November, 2016. He submit that for want of knowledge on the part of Applicants, there is a delay in preferring the present Civil Application. He submit that in the interest of justice, this Hon'ble Court be pleased to condone the delay in filing the present Civil Application. In support of his contention the learned Counsel for Applicant relies on paragraph 5 of Civil Application.

4 The learned counsel for the applicant submits that the petition was filed on 18.12.2012. Original petitioner expired on 23.03.2016. He submits that for want of knowledge, legal heirs of sole petitioner contacted advocate in the month of November, 2016 for taking appropriate steps. He submits that before that, matter appeared on board on 19.9.2016 and same was admitted. The learned counsel for the applicant relies on paragraph 5 of the present Civil Application for these reasons.

5 Considering the submissions made by the learned counsel for the Applicant and the averments made in the Application, 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) Applicant is permitted to bring on record legal heirs of sole petitioner in Writ Petition No.3988 of 2013 within 3 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.
- c) If amendment is carried out within stipulated time as stated hereinabove, the Applicant is directed to serve an amended copy of the Writ Petition on other side's Advocate, immediately thereafter.
- d) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)