

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

CIVIL APPLICATION NO.1687/2017
IN
SECOND APPEAL NO.249/2014

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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Ms. Avanti Inamdar i/b. R. N. Gite for the Applicant
Mr. Gurudas S. Gorwadkar with Ravi G. Shinde i/b. Sujay H. Gangal for Respondent Nos.1 and 2.

CORAM : K. K. TATED, J.
DATE : DECEMBER 20, 2017

P.C.:

1. Heard. This Application is for bringing the legal heirs on record of deceased Respondent No.3 Sitabai Balu Bhagare who expired on 14.01.2014. There is delay of more than 3 years and 215 days in making the Civil Application.

2. The learned counsel for the Applicant submits that for want of knowledge about the death of Respondent No.3 there is delay. He submits that as soon as they learnt about death of Respondent No.3 they made enquiry and obtained death certificate from the Grampanchayat

Malegaon, Tq. Surgana, Dist. Nasik and made the Civil Application on 15.11.2017. He submits that in the interest of justice, this Hon'ble Court be pleased to condone the delay and allow the Applicant to bring the legal heirs on record of deceased Respondent No.3. He submits that if delay is not condoned, irreparable loss will be caused to them.

3. On the other hand the learned counsel for the legal heirs of deceased No.3 vehemently opposed the Civil Application. He submits that the Applicant has not shown sufficient cause for condonation of delay. Hence, there is no substance in the Civil Application. Same be dismissed with costs.

4. It is to be noted that the delay in making the Civil Application on the part of the Applicant is caused because of want of knowledge. These facts are stated by the Applicant in para 2 of the Civil Application. Though the delay is not properly explained, in the interest of justice the Civil Application is being allowed on payment of cost of Rs.2500/-.

5. Hence, following order is passed.

- a. Abatement is set aside.
- b. The Applicant is permitted to bring the legal heirs on record of the deceased Respondent No.3 in the Second Appeal on or before 20.01.2018 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, an amended copy of the Second Appeal along with all annexures shall be served on the advocate for the legal heirs.
- d. The learned counsel for the Applicant to pay cost of Rs.2500/- to the Respondent or their advocate on or before 06.01.2018, failing which the Civil Application shall stand dismissed without further reference to the court.
- e. The learned counsel for the legal heirs of deceased Respondent No.3 in the Second Appeal waives service.
- f. Civil Application stands disposed of accordingly.

JUDGE