

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

CIVIL APPLICATION NO.1688/2017
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.5 Somibai Balu Suryavanshi who expired on 17.02.2010.

2. The learned counsel for the Applicant submits that for want of knowledge about the death of Respondent No.5 it remained on their part to make an appropriate Application for bringing her legal heirs on record. He submits that as soon as they learnt about death of Respondent No.5 they made the present Civil Application. He submits that they have good chance of success in the matter. He

submits that in the interest of justice this Hon'ble Court be pleased to condone the delay in preferring the Second Appeal and allow the Applicant to bring the legal heirs on record of deceased Respondent No.5.

3. On the other hand the learned counsel for the legal heirs of deceased No.5 submits that the delay is not properly explained. Hence, there is no question of allowing the Civil Application.

4. Considering the submissions made by the learned counsel for the Applicant and since there was delay on the part of the Applicant to make an Application for want of knowledge, I am satisfied that the Applicant has made out a case for allowing the Civil Application.

5. Hence, following order is passed.

a. Abatement is set aside.

b. Delay in making the Civil Application is condoned.

b. The Applicant is permitted to bring the legal heirs on record of the deceased Respondent No.5 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 of deceased Respondent No.5 immediately thereafter.

d. The learned counsel for the legal heirs of deceased Respondent No.5 in the Second Appeal waives service.

e. Civil Application stands disposed of accordingly.

JUDGE