

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

**CIVIL APPLICATION NO.177 OF 2017
IN
SECOND APPEAL NO.1112 OF 2016**

Mr. Iabal Ahmed S/o Momin Nizamuddin
@ Abdul Khalique Shikari ... Applicant

In the matter between

Prakash Kantilal Shah ... Appellant
V/s.
Soghrabi Iqbal Husein & ors. ... Respondents

...
Mr. S. R. Waghmare for the applicant.
Mr. Anil Kumar Patil for the respondents.
...

CORAM : S. C. GUPTE, J.

DATE : 3 FEBRUARY, 2017.

P.C. :

. This Civil Application seeks an order declaring abatement of the Second Appeal against respondent no.3 who expired on 12 March 2008. The legal heirs of the deceased respondent are not brought on the record. Learned Counsel for the respondents submits an affidavit of his client (Original Appellant) wherein it is stated that he does not intend to prosecute the appeal against the legal heirs of respondent no.3 and that he would suffer instead an order of abatement as against deceased respondent no.3. The affidavit is tendered in Court and taken on record.

2. Accordingly, the Civil Application is allowed by declaring the abatement of this Second Appeal as against Respondent No.3.

(S. C. GUPTE, J.)