

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 959 OF 2018
IN
WRIT PETITION NO. 9294 OF 2005

Kamal M. Morarka

....Applicant

V/s.

Central Bank of India and Ors.

....Respondents

Mr. Banerji i/by. Mahesh Jani & Co., Advocate for the
applicant.

Ms. Greeshma Thomas, i/by. Mulla & Mulla & Cragie Blunt
& Caroe, Advocate for respondent no.1.

Coram : K.K. Tated, &

Sandeep K. Shinde, JJ.

Monday, 3rd September, 2018.

P.C. :

1. Heard Learned Counsel for the parties.
2. Though the legal heirs of deceased respondent no.3
have been duly served by private notice, no one appears on
behalf of them when the matter was called out.

3. Learned Counsel for the applicant submits that, they learnt about the death of respondent no.3, Mr. S.K. Somaiya, when they received a letter dated 29th December, 2016 from M/s. Hariani & Co. (Exhibit-A). Thereafter, they immediately wrote a letter dated 13th February, 2017 to M/s. Hariani & Co. requesting them to provide address of legal heirs. He submits that, they received the address of legal heirs of deceased respondent no.3 on 14th February, 2017. Thereafter, immediately they filed the present Civil Application.

4. Considering the submissions made by the Learned Counsel for the applicant and averments made in the application, we are satisfied that applicant has made out a case for allowing this Civil Application. Hence, the following order :

(a) abetment is set aside.

(b) delay in preferring Civil Application is condoned.

(c) The applicant is permitted to bring the legal heirs on record of deceased respondent no.3 in Writ Petition No. 9294 of 2005 within three weeks from today, failing which the Civil Application shall stand dismissed.

(d) if amendment is carried out as stated hereinabove, the Registry is directed to issue notice to the added respondent in Writ Petition returnable after 12 weeks.

(e) In addition to usual mode of service, the applicant is permitted to serve the added respondent, as well as, the other respondents with amended copy of the writ petition by private notice either by R.P.A.D and/or by hand delivery and to file an Affidavit of service to that effect.

(f) Civil Application stands disposed off accordingly.

(SANDEEP K. SHINDE, J)

(K.K. TATED, J)