

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1187/2018
IN
WRIT PETITION NO.9417/2005

Kamal M. Moraka ... Applicant
V/s.
Central Bank of India & Ors. ... Respondents

Mr. Dibyojyoti Banerji with Kanchi K. Joshi i/b. M/s. Mahesh Jani &
Co. for the Applicant

**CORAM: K.K. TATED &
S. K. SHINDE, JJ.**

DATED : OCTOBER 4, 2018

P.C. :

1 Heard. The learned counsel for the Applicant submits that all the Respondents are duly served by private notice. He submits that they have filed the Affidavit of service dated 24.02.2018. In spite of service none appeared for the Respondent.

2 The learned counsel for the Applicant submits that by this Civil Application, they are seeking permission to bring on record the legal heirs of deceased Respondent No.4 Dr. S. K. Somaiya who died on 01.01.2010. He submits that the advocate for Respondent No.4 informed them about the same by letter dated 29.12.2016. He submits that thereafter they made the present Civil Application. He submits that the delay in taking out the Civil Application may be condoned and abatement order be set aside. He submits that they have good chance

**Basavraj
Gurappa
Patil**

Basavraj G. Patil

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of success in the matter. He submits that if the delay is not condoned, irreparable loss will be caused to them.

2 Considering the submissions made by the learned counsel for the Applicant and the reasons disclosed in paragraph 4 to 6 of the Civil Application, we are satisfied that the Applicant has made out a case for allowing the present Civil Application.

3 Hence, the following order:

- a) Abatement is set aside.
- b) Delay is condoned.
- c) The Applicant is permitted to bring on record the legal heirs of Respondent No.4 Dr. S. K. Somaiya in the Writ Petition.
- d) All consequential amendments to be carried out on or before 26.10.2018, failing which the Civil Application shall stand dismissed without further reference to the court.
- e) 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 all the Respondents including legal heirs of deceased Respondent No.4, by hand delivery and file an Affidavit of service to that effect within two months from today.
- f) Civil application stands disposed off accordingly.

(S. K. SHINDE, J.)

(K. K. TATED, J.)