

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.121 OF 2019
IN
APPEAL FROM ORDER NO.417 OF 2018**

Smt. Atuli Anton D'mello @
(Atuli Catti Andrew Lopes)
thr. P.O.A. Canan Dominic D. .. Applicant
Versus
Shri. Peter Anton Lopes and Ors. .. Respondents

Mr. P.G. Kathane for applicant.

Mrs. Shivani S. Somel for respondent No.23.

Mr. R. Narula I/b Jhangiani Narula and Associates for respondent No.24.

CORAM : K.K. TATED, J.

DATE : 11 MARCH 2019.

P.C:-

1. Heard learned Counsel for parties.

2. By this civil application applicant is seeking permission to bring the legal heirs on record of deceased respondent No.9-Shri. Michael Vactor Lopes who died on 16.12.2018. The learned Counsel Mrs. Shivani Somel submits that she received instructions to appear on behalf of legal heirs of respondent No.9. She submits that they have no objection if the

civil application is allowed by condoning the delay.

3. Considering the submissions made by learned Counsel for the applicant, averments made in civil application and as the advocate Mrs. Shivani Somel appearing on behalf of legal heirs of respondent No.9 have no objection, I am satisfied that the applicant has made out case for allowing this civil application. Hence, following order :-

- a) Abatement is set aside.
- b) Applicant is permitted to bring the legal heirs of respondent No.9 in Appeal from Order No.417 of 2018 on or before 30.03.2019, failing which civil application shall stand dismissed without reference to the Court.
- c) If amendment is carried out within time, applicant is directed to serve the amended copy of Appeal from Order on other side on or before 12.04.2019.
- d) Advocate Mrs. Shivani Somel undertakes to file Vakalatnama on behalf of legal heirs of respondent No.9 in Appeal from Order No. 417 of 2018.
- e) Civil application stands disposed of accordingly.
- f) No order as to costs.

(K.K. TATED, J.)