

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION
CIVIL APPLICATION NO.238 OF 2018
IN
APPEAL FROM ORDER NO. 179 OF 2018**

Pratik Indl Estate Coop Scty Ltd	.. Applicant
v s	
Ramesh Harakchand Arora	.. Respondent

Ms.Sapna Krishnappa I.b Mr.Suresh Dubey for Applicant
Mr.Kevin Chettiar for Respondent no.1

CORAM : K.K.TATED , J
DATE : 9th April, 2019

P.C

Heard learned counsel for the parties.

2. By this Civil Application, the applicant is seeking permission to bring the legal heirs on record of the deceased respondent no.2 Prakash Harakchand Arora who died on 21.11.2015.

3. Learned counsel for the applicant submits that they received a letter dated 11.12.2015 from the earlier Advocate that the respondent no.2 expired on 21.11.2015 along with copy of Death Certificate. He submits that thereafter, they called him to provide the names and addresses of the legal heirs of the deceased. She submits that they received the names and addresses of the legal heirs of the deceased by the respondent's Advocate's letter dated 8.2.2016 and thereafter immediately

they filed the present Civil Application on 12.2.2016. She submits that in view of this fact, in the interest of justice, this Hon'ble Court be pleased to condone the delay in filing the present Civil Application and permit the applicants to bring the legal heirs of the deceased respondent no.2 on record of the Appeal from Order as well as in the Civil Application.

4. Learned counsel appearing for the respondent no.1 submits that he has received instructions from the legal heirs of the deceased respondent no.2 to appear in the present Appeal from Order. He undertakes to file the vakalatnama on behalf of legal heirs of Respondent no.2 in the Appeal from Order. The same is accepted.

5. Considering the submissions made by the learned counsel for the Applicant, averments made in the Civil Application, letter dated 11.12.2015 Exhibit A, letter dated 8.2.2016 Exhibit C to the Civil Application and as Advocate Mr.Chettiar appearing for the respondent no.1 undertakes to file vakalatnama on behalf of the legal heirs of the deceased respondent no.2, I am satisfied that the Applicant has made out a case for allowing the Civil Application. Hence, the following order :

ORDER

- (i) Delay in filing the Civil Application is condoned.
- (ii) Abetment is set aside.

(iii) The Applicant is permitted to bring on record the names and addresses of the legal heirs of deceased respondent no.2 in Appeal from Order (Stamp) No.32049 of 2015 and pending Civil Application if any on or before 2.5.2019 failing which the Civil Application shall stand dismissed without referring back to the Court.

(iv) If amendment is carried out within the stipulated time, as stated above, the Applicant to serve the amended copy of the Appeal Memo on the respondent's Advocate immediately thereafter.

(v) Learned counsel Mr.Kevin Chettiar waives service on behalf of legal heirs of deceased respondent no.2 in Appeal from Order (Stamp) No.32049 of 2018.

Civil Application stands disposed of accordingly. No order as to costs.

{K.K.TATED, J}