

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

CIVIL APPLICATION NO.2355 OF 2019

IN

FIRST APPEAL NO.209 OF 2003

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.C.M.Kothari for the applicant

Mr.Sagar Talekar for the respondent

CORAM : K. K. TATED, J

DATE : JULY 16, 2019

P.C.:

. Heard.

2 By this Civil Application, Applicant is seeking permission to bring legal heirs on record of sole Respondent Calan Bijia who died on 10.1.2012.

3 The learned counsel for the Applicant submits that the learned counsel for the Respondent by his letter dated 13.6.2014 informed the Applicant's advocate about the death of sole Respondent and name and

address of legal heirs. Thereafter, Applicant filed present Civil Application for bringing legal heirs on record. He submits that in the interest of justice, this Hon'ble Court be pleased to condone the delay in filing Civil Application and permit the Applicant to bring legal heirs on record of deceased Respondent. He submits that they have good chance of success in the matter. He submits that if delay is not condoned, irreparable loss will be caused to the Applicant.

4 On the other hand, the learned counsel for the Respondent submits that he received instruction to appear on behalf of Respondent i.e. legal heirs of deceased sole Respondent. He undertakes to file vakalatnama on behalf of them in First Appeal also.

5 Considering the submissions made by the learned counsel for the Applicant and the averments made in the Application, I am satisfied that the Applicant has made out a case for allowing the present Civil Application. Hence, the following order:

- a) Delay in filing the First Appeal is condoned.
- b) Abatement is set aside.
- c) Applicant is permitted to carry out appropriate amendment in cause title of First

Appeal No.209 of 2003 by bringing legal heirs on record of deceased appellant on or before 23.08.2019, failing which the Civil Application shall stand dismissed without further reference to the court.

d) If amendment is carried out within stipulated time as stated hereinabove, the Applicant is directed to serve an amended copy of the First Appeal on the Advocate for the other side, immediately thereafter on or before 13.09.2019 and file an Affidavit of service to that effect.

e) Respondent's advocate to file Vakalatnama on behalf of legal heirs in First Appeal as early as possible in any case on or before 7.9.2019.

f) The learned counsel for the Respondent waives service in First Appeal.

g) Civil Application stands disposed of accordingly.

h) No order as to costs.

(K.K.TATED, J.)