

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

**CIVIL APPLICATION NO.4761 OF 2016
IN
FIRST APPEAL NO.366 OF 2015**

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.Kaustubh Thipse i/b Ms.Shruti Tulpule for
the applicant

**CORAM : K. K. TATED, J
DATE : AUGUST 1, 2019**

P.C.:

. Heard.

2 The learned counsel for the Applicant submits that Respondent is duly served by private notice. He filed an Affidavit of service dated 30.7.2019. Same is taken on record.

3 The learned counsel for the Applicant submits that by this Civil Application, Applicant is seeking permission for bringing legal heirs on record of deceased sole

Respondent P.Y.Burchell. He further submits that there is a delay of 44 days in filing Civil Application. He submits that in a litigation which is pending between the parties in Small Causes Court, they learnt that Respondent expired. They immediately filed present Civil Application. He submits that in the interest of Justice, this Hon'ble Court be pleased to allow the Applicant to bring legal heirs on record of deceased Respondent in First Appeal No.366 of 2015 by condoning delay of 44 days.

4 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) Civil Application is allowed in terms of prayer clause (a), (b) and (c) which reads thus:

"(a) that the abatement of the First Appeal against the deceased Respondent be set aside;

(b) that the delay of 44 days in filing this Application be condoned;

(c) that the Applicant be allowed to amend the above First Appeal by deleting the name of the original Respondent Smt.P.Y.Burchell and inserting the name of the Respondent herein Mr.William Frank Burchell instead in the cause title of the First Appeal and also to carry out consequential amendments, if any.

(d) cost of the application be provided for;

B) Amendment be carried out on or before 31.8.2019, failing which the Civil Application shall stand dismissed without further reference to the court.

C) If amendment is carried out within stipulated time as stated hereinabove, Registry is directed to issue notice to the Respondent legal heirs in First Appeal No.366 of 2014, returnable on 8.11.2019.

D) In addition to usual mode of service, Applicant is permitted to serve legal heirs of Respondents along with entire proceedings by

private notice either by registered post A.D.
and/or by hand delivery and file Affidavit of
Service to that effect.

E) Civil application stands disposed off
accordingly.

F) No order as to costs.

(K.K. TATED, J.)