

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.3834 OF 2014
IN
FIRST APPEAL NO.840 OF 2002**

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. Anilkumar Mishra for applicant.
None for the respondent.

**CORAM : K. K. TATED, J
DATE : MARCH 19, 2019**

P.C.:

. Heard learned Counsel for the applicant.

2. Though the respondents are duly served, no one appeared on behalf of them when the matter called out.

3. By this civil application, applicant/original defendant is seeking permission to bring the legal heirs on record of deceased respondent/original plaintiff who died on 31.12.2007.

4. The learned Counsel for the applicant submits that because of want of knowledge, it remain on their part to file Civil Application within time. He further submits that this Court by order dated 09.10.2014 dismissed First Appeal for want of bringing legal heirs on record of deceased sole respondent. He submits that in the interest of justice this Hon'ble Court be pleased to condone the delay in filing Civil Application, setting aside the abatement, to set aside the conditional order dated 09.10.2014 and allow the applicant to bring the legal heirs on record of deceased respondent. He submits that if present civil application is not allowed, irreparable loss will cause to them.

5. Considering the submissions made by learned Counsel for the applicant, averments made in civil application and in spite of service no one appeared on behalf of respondent, I am satisfied that the applicant

has made out case for following order :-

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

“a) That the Hon'ble Court may be pleased to condone the delay in filing the present Civil Application.

b) That the Hon'ble Court be pleased to set aside the abatement of First Appeal No.840 of 2002 and same be restored on file and be heard on merit.

c) That the Hon'ble Court be pleased to set aside the conditional order dated 9/10/2014 passed by the Hon'ble Registrar of this Hon'ble Court.

d) That the proposed Respondent be brought on record by deleting the deceased sole respondent in First appeal.”

b) Applicant to carry out amendment on or before 26.04.2019, failing which Civil Application shall stand dismissed without reference to the Court.

- c) If amendment is carried out within time, as stated above, registry is directed to issue notice to the added respondents in First Appeal No.840 of 2002.
- d) In addition to the usual mode of service, applicant is permitted to serve the added respondents by private notice along with entire proceedings in First Appeal either by RPAD and or by hand delivery and file affidavit of service to that effect on or before 30.04.2019.
- e) Civil Application stands disposed of accordingly.
- f) No order as to costs.

(K.K.TATED, J.)