

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3478 OF 2019
IN
FIRST APPEAL NO.1264 OF 2015

Acme Housing India Pvt. Ltd.& Anr. .. Applicants

vs.

The Municipal Commissioner, Thane
Municipal Corporation & Ors. .. Respondents

Mr.Naushad Engineer a/w Mr.Digvijay S. Sarangdhar i/b M/
s.Rashmikant and Partners for the Applicants

Mr.Mandar Limaye a/w Ms.Gauri Velankar for the
respondent no.1

Mr.Omprakash Jha for the respondent no.2

**CORAM: K.K.TATED &
SARANG V. KOTWAL, JJ.
DATED : JANUARY 30, 2020**

P.C.

1 Heard.

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

3 The learned counsel for the applicant submits that
they already filed affidavit of service to that effect.
Statement is accepted.

4 By this Civil Application, applicant original plaintiff is seeking permission to bring legal heirs on record of respondent nos.15 who died on 30.12.1995 and respondent no.16 who died on 11.11.1978.

5 The learned counsel for the applicant submits that for want of knowledge about the death of the respondent, it remained on their part to take appropriate steps for bringing legal heirs on record. He submits that though they called upon the other side to provide names and address of the legal heirs, they failed and neglected to comply the same immediately. He submits that in the interest of justice, this Hon'ble Court be pleased to set aside the abatement and condoned the delay in filing the present application.

6 Considering the submissions made by the learned counsel for the applicant and the averments made in Civil Application, we are satisfied that the applicant has made out a case for allowing the Civil Application. Hence, following order is passed:

- a. Delay in filing Civil Application is condoned.
- b. Abatement is set aside.
- c. Applicant is permitted to bring legal heirs on record of deceased respondent nos.15 and 16 in First Appeal No.1264 of 2015 on or before 21.02.2020, failing which Civil Application shall stand dismissed without referring back to

the court.

d. If amendment is carried out within time, Registry is directed to issue notice to the added respondent in First Appeal No.1264 of 2015.

e. In addition to usual mode of service, applicant is permitted to serve added respondent in First Appeal No.1264 of 2015 by private notice along with entire proceeding either by Registered Post A/D and or by hand delivery and file Affidavit of Service to that effect on or before the next date.

f. Civil Application stands disposed of accordingly.

g. No order as to costs.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)