

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1615 OF 2005

Office Notes, Office Memoranda of Coram,
appearance, Court's orders or directions and
Registrar's orders

Court's or Judge's orders

CORAM : SHRI S. R. AGRAWAL
REGISTRAR (JUDL.II)

Date : 01/11/2023.

None present

As per Bailiff's Report dt. 28/12/2005
Notice of Respondent No. 1 is returned unserved
with remark, "Respondent No. 1 is expired, date
of death not mentioned" and Notice issued to
Respondent No. 2 returned unserved with
Bailiff's remark "Notice affixed with remark not
found, hence returned".

The above numbered First Appeal is listed
on the board of Registrar for third time. Already
04 weeks time was granted. However, despite of
granting 04 weeks time, the Advocate for the
Appellant has not taken any steps against
unserved Respondent No. 2 and deceased
Respondent No. 1 till date.

Here reference to Chapter VII Rule 6 Sub
rule 1 & 2 of the Bombay High Court, Appellate
Side Rules, 1960 [for short "Rules"] may be
conveniently made. It states about Processes,
Process fees, Printing charges, Security for costs
and other procedure after admission etc.

In view of provisions under Chapter VII,
Rule 6 (2), in cases where 90 days have elapsed
from the reported death of any of the parties to the
appeal and no action has been taken by the
appellant to bring the heirs of the deceased party
on record the matter shall be placed before the
Registrar for orders regarding the abatement of

the appeal as against the deceased party as soon as possible.

And

In view of provisions under Chapter VII, Rule 6 (1) (e), Immediately after the expiry of the period prescribed under the foregoing sub-rule of this rule for taking the requisite steps for the issue of fresh notice or for supplying postal stamps to cover the postal and registration charges, the office shall place before the Registrar all such matters in which steps have not been taken for the issue of fresh notices or the postal stamps to cover the postal and registration charges have not been supplied within the prescribed time, and the Registrar shall dismiss the matter for failure to prosecute :

The prescribed time to bring on record the heirs of the deceased Respondent No. 1 provided under Rules 1960 had been expired. In respect of deceased Respondent No. 1 and unserved Respondent No. 2, four weeks time was granted, but all in vain. The matter is lying ideally without any progress due to not taken any steps. However, instead of passing order of abatement/dismissal outrightly, it would be just and proper to give one opportunity to take steps regarding deceased Respondent No. 1 and unserved Respondent No. 2.

In turn, two weeks time (excluding Diwali Vacation) is granted with directions to take steps against unserved Respondent No. 2 and deceased Respondent Nos. 1 without fail. On failure, the First Appeal would stand dismissed against unserved Respondent No. 2 and abated against deceased Respondent No. 1, without further reference to the Court of Registrar.

Sd/-

REGISTRAR (JUDL-II)