

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

CIVIL APPLICATION NO. 4235 OF 1995
IN
FIRST APPEAL NO. 603 OF 1995

Office Notes, Office Memoranda of Coram, appearance, Court's orders or directions and Registrar's orders	Court's or Judge's order
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None present

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

Date : 21/07/2023

As per Bailiff's Report dated 25/01/2023, the notice issued to Respondent No.1 returned unserved with remarks as "expired since long back". Likewise, the bailiff's report dated 3/02/2023 shows that the Respondent No.3 expired on 26/05/2022. The notice issued to Respondent No.2 returned unserved with bailiff's remark dated 18/01/2023 as "Not found Door Locked".

As such Respondent Nos. 1 and 3 are reported to be dead and the notice of Respondent No.2 returned unserved. However, though present Civil Application was listed on board thrice and already four weeks time has been granted, the learned Advocate for the Appellant has not taken any steps to bring the legal heirs of deceased Respondent Nos. 1 and 3 and for service of notice upon Respondent No.2.

..2..

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 :

..3..

Thus, the prescribed time to bring on record the heirs of the deceased Respondent Nos.1 and 3 as provided under Rules 1960 has been expired. Like wise, though sufficient time granted, the learned Advocate for Appellant has not taken any steps for service of notice upon Respondent No.2. 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 last opportunity to take steps regarding deceased Respondent Nos. 1 and 3 and unserved Respondent No.2.

In turn, two weeks time is granted with directions to take steps against unserved Respondent No.2 and deceased Respondent Nos. 1 and 3 without fail. On failure, Civil Application shall stand dismissed against unserved Respondent No.2 and abated against deceased Respondent Nos. 1 and 3, without further reference to the Court of Registrar.

Sd/-
REGISTRAR (JUDL-II)

