

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

FIRST APPEAL NO. 21 OF 2024
ALONGWITH
INTERIM APPLICATION NO. 85 OF 2024
IN
FIRST APPEAL NO. 21 OF 2024

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

Court's or Judge's order

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

DATE : 03/10/2024

Adv. Nikita Kamble i/by Adv. S.M. Kamble present for the
Appellant

The notices issued to respondent Nos. 5, 13 to 16, 18E and 18F are returned unserved. Therefore, the above numbered First Appeal alongwith Interim Application is listed on the board of registrar for second time for taking steps against unserved respondent Nos. 5, 13 to 16, 18E and 18F. However, the learned advocate for the applicant has neither taken steps nor supplied proper and correct addresses of respondent Nos. 5, 13 to 16, 18E and 18F.

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 (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 or 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.:

As such, the prescribed time to take steps against unserved respondent Nos. 5, 13 to 16, 18E and 18F as provided under Rule 1960 has been expired. 02 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 dismissal outrightly, it would be just and proper to give one opportunity to take steps against unserved respondent Nos. 5, 13 to 16, 18E and 18F.

In turn, two weeks time is granted with directions to take steps against unserved respondent Nos. 5, 13 to 16, 18E and 18F without fail. On failure, the First Appeal alongwith Interim Application and Interim Application (ST) would stand dismissed against unserved respondent Nos. 5, 13 to 16, 18E and 18F without further reference to the Court of Registrar.

Sd/-
REGISTRAR (JUDL-II)

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REGISTRAR (JUDL -II)

DATE : 03/10/2024

Adv. Nikita Kamble i/by Adv. S.M. Kamble present for the
Appellant

As per Bailiff's Report dated 02/03/2024 &
06/03/2024, Notices of Respondent Nos. 3, 6,18/B,
37/a and 37/d are returned unserved with remark
"expired"

The above numbered First Appeal alongwith
Interim Application is listed for second time on the
board of Registrar for taking steps to bring the legal
representatives of the deceased Respondent Nos. 3,
6,18/B, 37/a and 37/d on record. Already two weeks
time was granted. However, despite of granting two
weeks time, the learned Advocate for the Appellant has
not taken any steps for bringing the legal
representatives of deceased Respondent Nos. 3,
6,18/B, 37/a and 37/d on record.

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.

As such, the prescribed time to bring on record the legal representatives of the deceased Respondent Nos. 3, 6,18/B, 37/a and 37/d as provided under Rules 1960 has been expired. 02 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 outrightly, it would be just and proper to give one opportunity to take appropriate steps for bringing on record the legal representatives of deceased Respondent Nos. 3, 6,18/B, 37/a and 37/d, if any .

In turn, two weeks time is granted with direction to take appropriate steps for bringing the legal representatives of deceased Respondent Nos. 3, 6,18/B, 37/a and 37/d, if any on record. On failure, the Proceeding would stand abated against deceased Respondent Nos. 3, 6,18/B, 37/a and 37/d without further reference to the Court of Registrar.

The notice issued to respondent No.1 by RPAD is returned without signature on the acknowledgement for respondent No. 1. Hence, re-issue Notice to respondent No. 1 by RPAD, returnable by 10 weeks.

Sd/-
REGISTRAR (JUDL-II)

sat-R(J-II)-03.10.2024