

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.3604 OF 2025
IN
FIRST APPEAL NO.1776 OF 2010
WITH
CIVIL APPLICATION NO.2291 OF 2012
IN
FIRST APPEAL NO.1776 OF 2010

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M/s. Asian Builders & Contractors .. Applicant.

In the matter between

M/s. Asian Builders & Contractors .. Appellant.

v/s.

Narsing Swami & Others .. Respondents.

Ms. Pratiksha Koshe with Ms. Prarthnaa Thaker i/b. M/s. Divekar
Bhagwat & Co., for the Applicant/ Appellant.

CORAM: FIRDOSH P POONIWALLA,J.
DATE : 9th SEPTEMBER, 2025.

P. C:-

1 This Interim Application has been filed seeking to set aside the abatement of the First Appeal and for amending the First Appeal to delete the name of the deceased Respondent No.1 and to bring his heirs on record.

2 Respondent No.1 passed away on 17th February, 2015. A copy

of his death certificate is annexed to the Interim Application. The Advocate for the Appellant was informed about his passing away only in February, 2025 in response to communication dated 6th February, 2025 addressed by them to the Advocate for the Respondents.

3 The deceased Respondent No.1 left behind two heirs namely – his wife Sushila Narsing Swami and his son Milind Narsing Swami. Sushila Narsing Swami is already on record as Respondent No.2.

4 In these circumstances, the Applicant has sought to delete the name of the deceased Respondent No.1 and bring his son Milind Narsing Swami on record as his heir and legal representative.

5 Having perused the Interim Application, in my view, sufficient case is made out for granting the reliefs sought therein.

6 In view of the same, the Interim Application is allowed in terms of prayer clauses (a) to (e) which read as under:-

“(a) That the abatement of the First Appeal, if any, against the deceased Respondent No.1 be set aside;

(b) That the delay of 3568 days in filing the present Interim Application be condoned;

(c) That the Applicant be permitted to delete the name of the deceased Respondent No. 1 from the cause title of the First Appeal;

(d) That the Applicant be permitted to amend the First Appeal in terms of the Schedule annexed as Exhibit "C" hereto;

(e) That the Applicant be permitted to delete the name of the deceased Respondent No. 1 from the cause title of the Civil Application No. 2291 of 2012 and be permitted to amend the same in terms of the Schedule annexed as Exhibit "C" hereto."

7 Amendment to be carried out within a period of three weeks from today. Re-verification is dispensed with.

8 Place the First Appeal on board on 24th September, 2025.

(FIRDOSH P. POONIWALLA,J.)