

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.116 OF 2007  
A/W  
SECOND APPEAL NO.171 OF 2007

Office Notes, Office Memoranda of Coram, appearance, Court's orders or directions and Registrar's orders	Court's or Judge's orders
<p>CORAM : <u>S.R. AGRAWAL</u> <u>REGISTRAR (JUDL. - II)</u></p> <p>DATE : 17<sup>th</sup> February, 2025</p> <p>None present.</p> <p><u>As per Bailiff's report dated 09/04/2014, Respondent No.5 - Banoo Jeevanji Tadawala is reported to be dead on 26/07/2010.</u> The matter was placed on board of Registrar for second time. However, learned Advocate for the Appellant has not taken any steps for bringing on record the legal representative of the deceased Respondent No.5.</p> <p>In view of provisions under Chapter VII, Rule 6(2) of the Bombay High Court, Appellate Side Rules, 1960, 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.</p>	

As such, the prescribed time to bring on record the heirs of the deceased Respondent No.5 as provided under Rule 1960 has been expired. 06 (six) weeks time was granted, but all in vain. The matter is lying ideally without any progress due to want of any steps.

However, instead of passing order of abatement outrightly, it would be just and proper to give one more opportunity to take steps for bringing the legal representatives of deceased Respondent No.5 on record.

In turn, 07 (seven) weeks time is granted with directions to take steps for bringing on record legal representative of deceased Respondent No.5 without fail. On failure, proceeding would stand abated against deceased Respondent No.5 - Banoo Jeevanji Tadawala without further reference to the Court of Registrar.

The notices issued to Respondent Nos.4 and 7B-9 are returned unserved with remarks 'incomplete address' and 'left the premises since long back' respectively. The matter was placed on the board of Registrar for second time. Already two weeks time has been granted, however, despite granting two weeks time, the learned Advocate for Appellant has not provided proper and correct address of Respondent Nos.4 and 7B-9.

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.

As such, the prescribed time to take steps against unserved Respondent Nos.4 and 7B-9 as provided under Rules 1960 has been expired. 02 (two) weeks time was granted, but all in vain. The matter is lying ideally without any progress due to want of any steps.

However, instead of passing order of dismissal outrightly, it would be just and proper to give one more opportunity to take steps against unserved Respondent Nos.4 and 7B-9.

In turn, 02 (two) weeks time is granted with directions to take steps for service of notice upon unserved Respondent Nos.4 and 7B-9 without fail. On failure, proceeding would stand dismissed against unserved Respondent Nos.4 and 7B-9, without further reference to the Court

of Registrar. No further extension of time shall be granted.

sd/-  
Registrar (Judl. - II)

apj