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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO.2729 OF 2012
WITH
CIVIL APPLICATION NO.3057 OF 2015**

Shahurao s/o Sitaram Bhalerao & ors. ..PETITIONERS

VERSUS

Vishwanath s/o Rama Jadhav,
since deceased, through L. Rs. & ors. ..RESPONDENTS

Mr C.V. Dharurkar, Advocate for petitioners;
Mr G.K. Naik - Thigale, Advocate for respondents no.7 and 8-A to 8-F

**CORAM : N.W. SAMBRE, J.
DATE : 3rd December, 2015**

ORAL ORDER :

Learned Civil Judge Junior Division, Gevrai, has decreed Regular Civil Suit No.32 of 1993, by judgment and decree dated 26th July, 2002, ordering present petitioners-original defendants to put the respondents-original plaintiffs in possession of the suit land Gat No.16, ad measuring 15 Hectares, situated at village Agarnandur.

2. An appeal against the said judgment and decree came to be dismissed in default and since the restoration application was time barred, the petitioners chose to prefer this petition.

3. On 22nd April, 2013, this Court has granted an opportunity to the petitioners to take steps, in relation to respondents no.1A, 5D, 6, 10 and 15

(2)

and passed a conditional order, that the petition shall stand dismissed against the above referred parties, if steps are not taken. Since the steps were not taken, the petition stood dismissed as against the above referred respondents.

4. In view of dismissal of the petition against the said respondents, this Court has examined the claim of the petitioners, to continue with the petition as against the surviving respondents and it is noted that the right to sue against the surviving respondents will not be continued, in view of the nature of judgment and decree passed by the Trial Court, as the same is consolidated decree and no independent shares of the plaintiffs were carved out *qua* the defendants.

5. In view thereof, in my opinion, the present petition abates and as such stands dismissed.

6. It is made clear that it is open for the petitioners to take steps, as are available, for setting aside abatement.

7. In view of dismissal of writ petition, Civil Application No.3057 of 2015 does not survive and stands disposed of accordingly.

(N.W. SAMBRE, J.)

amj