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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL STAMP NO.20957 OF 2014

Dr. Bharat Balkrishna Joshi
Chhaya Sadan, Padmavatidevi Road,
Opp IIT Market, Powai,
Mumbai

APPELLANT

VERSUS

1. Dalimbibai Tukaram Shirole
2. Namdeo Tukaram Shirole
3. Ramesh Tukaram Shirole

RESPONDENTS

All R/o Ambedkar Chowk, Kada
Taluka Ashti, District – Beed

4. Sudam Natha Gavari,
R/o At Morarji Residence,
Room No. 403, Pam Road,
Sanpada, Sector – 16
Navi Mumbai

.....
Mrs. Neha Bhide h/f Mr. U. A. Kekale, Advocate for the appellant
Mr. G. R. Syed, Advocate for respondents No.1 to 3
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[CORAM : M. T. JOSHI, J.]

DATE : 25th FEBRUARY, 2015

ORAL JUDGMENT :

1. Heard. **Admit.**
2. Heard finally with consent of both the sides.

3. The only issue that has arisen in the first appeal filed challenging the judgment and award of learned Motor Accident Claims Tribunal in MACP No. 269 of 2005, is as to whether the present appellant, whose power of attorney holder failed to prosecute the case in the trial court, shall be allowed to prosecute the same, upon remand.

4. Upon hearing both the sides, in my view, since the power of attorney holder of the present appellant failed to take steps in the proceedings and since certain amount is already withdrawn by the respondents from the office of concerned tribunal, the appeal can be allowed. In the circumstances following order.

ORDER

I) Appeal is hereby allowed without any order as to costs and the award of the Tribunal is hereby quashed and set aside, instead the case is again remanded back to the learned Tribunal, who shall allow the appellant to file w.s. and allow both the sides to lead evidence, afresh and thereafter pass necessary award on merit.

II) Present respondents No. 1 to 3 i.e. original claimants

are allowed to withdraw an amount of Rs.25,000/- deposited by the present appellant towards statutory deposit in this Court, upon execution of an undertaking that in case any order adverse to their interest is passed by the Tribunal, they would refund the said amount within a period of four months from the date of such order.

III) In the circumstances civil application No. 1032 of 2015 stands disposed of.

IV) Parties are directed to appear before the Tribunal on 7th April, 2015.

[M. T. JOSHI, J.]

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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 9961 OF 2014
IN
FIRST APPEAL STAMP NO.20957 OF 2014

Dr. Bharat Balkrishna Joshi

APPLICANT

VERSUS

Dalimbibai Tukaram Shirole & others

RESPONDENTS

.....

Mrs. Neha Bhide h/f Mr. U. A. Kekale, Advocate for the applicant
Mr. G. R. Syed, Advocate for respondents No.1 to 3

.....

[CORAM : M. T. JOSHI, J.]

DATE : 25th FEBRUARY, 2015

ORDER :

1. Heard both the sides.
2. For the reasons stated in the application, delay of 995 days in filing the appeal is hereby condoned.
3. The application is allowed without any order as to costs.

[M. T. JOSHI, J.]

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