

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 40 OF 2017

IN

SECOND APPEAL NO.690 OF 2013

WITH

CIVIL APPLICATION NO.85 OF 2014

Shri. Pratap Ganpatrao Mane Applicants
(since deceased) thru LRs
Sau. Shashikala Vijay Karve & Ors.

Vs.

Shri. Dnyaneshwar Ganpatrao Mane Respondents
(since deceased) through legal heirs
Smt. Krishnabai Dnyaneshwar Mane
& Ors.

Mr. P.M. Arjunwadkar, Advocate for the Applicants and the
Appellant.

Mr. R.P. Hakepatil i/by S.P. Kadam, for Respondent nos. 1-A to 1-F.

Coram : N.M. Jamdar, J.

Date : 11 April, 2017

P.C. :

Not on board. Taken on board by way of praecipe.

2 It appears that the Second Appeal which is admitted on 12 December 2013, was dismissed for non-prosecution, since the paper-book was not filed in time. Thereafter, the Respondent no.1 expired and now the heirs of Respondent no.1 have been brought on record. Though there cannot be any justifiable excuse in not filing the paper-book in time, but since the learned counsel for the Applicants has tendered an unconditional apology and has stated that paper-book is now ready, for fault of the Advocate, the parties should not suffer the Civil Application is allowed in terms of prayer clauses (a) and (b). The Second Appeal stands restored to file. As far as the interim relief is concerned, the partition proceedings to go on, however, physical possession be not taken till disposal of the Second Appeal.

(N.M. Jamdar, J)