

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

Civil Application Stamp No. 02561 / 2019
(In Second Appeal Stamp No. 28721 / 2018)

District : Ahmednagar

Subhash Pandharinath Sathe
& 05 others.

.. Applicants
(Original appellants)

versus

Dwarkabai Mohan Borude.

.. Respondent
(Original respondent)

.....

*Mr. S.P. Salgar, Advocate, holding for
Mr. N.V. Gaware, Advocate, for the applicants.*

*Mr. U.U. Wagh, Advocate, for respondents
no.1A and 1B.*

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 21ST JANUARY 2019

ORAL ORDER :

01. By this application, the applicants have prayed for transposition of appellants no.02, 03 and 06 as party respondent in Second Appeal Stamp No. 28721/2018. It is stated, that they are now refusing to sign *Vakalatnama*. It is further stated, that they had initially agreed but now they have backed out.

02. Heard both sides.

03. Learned Advocate appearing for respondents no.1A and 1B has objected on the ground that without there being proper *Vakalatnama*, the appeal was filed and thereafter *ex parte* orders have been obtained. He has further contended that this application is nothing but act of protracting the appeal.

04. The first and foremost fact that is required to be considered is that though there was no *Vakalatnama* of these appellants, the appeal was filed. An impression was given that they are with other appellants. The appeal with the application was filed on 19-09-2018. On 26-09-2018, *ad interim ex parte* orders were passed in respect of handing over of possession of the suit property and thereafter that has been continued. Now, this application is filed. Though the appeal was filed showing them as appellants - applicants, however, since they had not given *Vakalatnama* to the learned Advocate appearing for the appellants, he cannot represent them. Therefore, definitely they are required to be transposed as respondents in the second appeal. However, it can be said that the step is taken belatedly and, therefore, costs is required to be imposed.

05. Hence, the following order :-

The civil application is allowed in terms of

(Order)

(3) Civil Appln. Stamp No. 02561/2019

prayer clause "A", subject to deposit of costs of Rs. 1000/- [Rupees one thousand] by the applicants with the High Court Legal Services Sub-Committee at Aurangabad, within 15 days from today.

(Smt. Vibha Kankanwadi)
JUDGE

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