

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

930 CIVIL APPLICATION NO.3985 OF 2012
IN RC/364/2012

PANDURANG SHIVBA MALWAD @ PATIL AND ORS
VERSUS
SHIVBA PANDURANG MALWAD AND ANR

...
Advocate for Applicants : Dr. Tawshikar Swapnil D.
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CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 20-03-2019.

PER COURT :

1. By order dated 20-02-2019 a conditional order was passed and the applicants were ask to take steps in respect of bringing legal representatives of respondent No.2 who had expired on 23-08-2012 on record. The steps were to be taken till 06-03-2019.
2. It appears that, no steps were taken on behalf of the applicants within the stipulated period and therefore as per the said conditional order the application stood dismissed as against respondent No.2.
3. Learned advocate appearing for the applicants prays time stating that, the legal representatives of respondent No.2 have filed suit for injunction before trial Court and there is a compromise between the applicants and those legal representatives. It is to be noted that, as

on today nothing is produced to support the statement by the learned advocate for the applicants. In fact when no steps have been taken within the aforesaid stipulated period, the conditional order has come to an effect.

4. Further the application was also against respondent No.1. The effect of dismissal of the application to condone the delay in view of the fact that steps were not taken against respondent No.2 is also required to be considered. The suit that was filed by the present applicants - original plaintiffs was for declaration and possession. It was dismissed and therefore they had approached District Court, Latur in Regular Civil Appeal No.04 of 2000. The said appeal came to be dismissed on 25-09-2002. Thus what was prayed for against the respondents No.1 and 2 was the joint and several decree and in view of the decision in, *Budh Ram and Ors. Vs. Bansi and Ors., reported in 2010 AIR SCW 5071*, the appeal as a whole abates. Hence, the civil application as well as second appeal are dismissed as abated.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.