

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

903 SECOND APPEAL NO. 133 OF 2019  
WITH  
CA/10056/2018  
IN  
SA/133/2019

WAHIDODDIN NAZIRODDIN KAZI AND ORS  
VERSUS  
NAZIRODDIN GULAM DASTGIR KAZI DIED  
THROUGH HIS LRS SALODDIN AND ORS

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Mr. V.M.Chate, Advocate for Appellants.

Mr. S.A.G. Qureshi, Advocate for R – 2.

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**CORAM : V.L.ACHLIYA, J.**

**DATE : 01/10/2019**

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**ORAL ORDER :**

1. The appellants have challenged the order dated 10/07/2017 passed by District Judge, Ambajogai, District Beed to dispose of the appeal as abated on failure to take steps to bring the L.Rs. of respondent on record. Since the Second Appeal is not maintainable against the impugned order, learned counsel on instructions from the appellants seeks permission to withdraw appeal with liberty to file application seeking setting aside the order of abatement passed by the appellate Court. As the appellants were wrongly prosecuting the appeal before this Court, the appellants are allow to withdraw appeal with liberty as prayed for. The appeal is disposed of as withdrawn. In the event the appellants approaches the

first appellate Court for setting aside the order of abatement and to bring L.Rs. of deceased respondent, then the time consumed by the appellants in prosecuting the appeal before this Court may be taken into consideration while condoning delay in filing such application. It is clarified that the withdrawal of appeal shall not act as impediment for the appellants to adopt any other remedy available under law.

2. In view of withdrawal of appeal, Civil Application No. 10056/2018 stands disposed of as infructuous.

**[V.L.ACHLIYA]**  
**JUDGE**

KNP.