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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER (ST) NO.13328 OF 2015
WITH
CIVIL APPLICATION (ST) NO.13333 OF 2015**

Ashok Laxman Padekar ... Appellant.
V/s.
Dilip Laxman Padekar and ors ... Respondents

Mr. Vivek V. Salunke, for the Appellant.
Ms. Aditi Naikare i/by Pradeep J. Thorat, for
respondent

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 22nd JANUARY, 2019.

P.C. :

- 1] Heard learned counsel for the appellant and respondent.
- 2] This appeal is directed against the dismissal of the Notice of Motion No.4097 of 2013 in Suit No.3596 of 2013. The impugned order is passed on 23.01.2015, in a suit which is filed in the year 2013. It is pointed out by learned counsel for respondent that the issues have already been framed and the suit is fixed for hearing.
- 3] In the present case no steps are taken till today for service of Notice to respondent No.2. Hence conditional order of dismissal of appeal against respondent No.2, is passed. Considering that in the Appeal, no such relief as sought in the Notice was granted.

Therefore, the interest of justice requires that as the issues are already framed, the trial Court may proceed with the hearing of the suit itself and hence the appeal stands dismissed.

4] As the suit is of the year 2013, needless to state that the trial Court will decide the same as expeditiously as possible.

5] In view of dismissal of Appeal itself, pending Civil Application therein become infructuous and the same is disposed off accordingly.

[DR.SHALINI PHANSALKAR-JOSHI, J.]