

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR**

**Civil Application (CAS) No.30/2020**

**AND**

**Civil Application (CAS) No.31/2020**

**AND**

**Civil Application (CAS) No.32/2020**

**IN**

**Second Appeal No.608/2007**

Sampatrao Wamanrao Sarnaik (Dead) thr. L.Rs. Vs. Sakubai w/o Rahunath Naikwade

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Office notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

Court's or Judge's Orders

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Shri R.S. Kurekar, Advocate for the Appellants.

Shri Shashibhushan Wahane, Advocate for the Respondent.

**CORAM : S.M. MODAK, J.**

**DATE : 24<sup>th</sup> SEPTEMBER, 2021.**

Appellant No.1-Kundlik Sarnaik i.e. legal representative of original deceased appellant-Sampatrao expired on 26<sup>th</sup> February, 2018. Photocopy of the death certificate is annexed. There is a delay of 580 days in bringing his legal representatives on record. The information about the death of Kundlik Sarnaik was not given to learned Advocate and, that is why, there is a delay. It is opposed on behalf of the respondent.

02] In the proceedings of the second appeal, the presence of the parties is not required. So, it is but natural for the learned Advocate to take steps only when the information of the death is given. The reason is convincing. Hence, the following order is passed:-

**ORDER**

a) All applications are allowed.

b) The abatement of the appeal against appellant No.1-

Kundlik Sarnaik is set aside.

- c) The delay caused in filing an application for setting aside the abatement and bringing on record the legal representatives of appellant No.1-Kundlik Sarnaik is condoned.
- d) The name of appellant No.1-Kundlik Sarnaik be deleted and the names of his legal representatives be added as appellant Nos.1(i) to 1(iv).
- e) Necessary amendment be carried out.
- f) All civil applications are disposed of.

03] Matter be kept in the 3<sup>rd</sup> week of October, 2021 for final hearing.

**JUDGE**

vijay