

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

CIVIL APPLICATION (CAS) NO.405/2021 WITH
CIVIL APPLICATION (CAS) NO.406/2021 WITH
CIVIL APPLICATION (CAS) NO.407/2021 WITH
PURSIS STAMP NO.03/2021 IN
SECOND APPEAL NO.529/2019

Shivshankar s/o Homedeo Borikar Vs.
Arvind s/o Rambhau Nimje and another.

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

Court's or Judge's Orders

Shri S. Raisuddin, Advocate for appellant.

CORAM : S.M. MODAK, J.
DATE : SEPTEMBER 09, 2021.

Heard learned Advocate for the appellant-original defendant. There is a decree against the deceased appellant. The appellant is directed to remove erected staircase and other structures falling in the common passage. His appeal was dismissed. That is how he had come in Second Appeal.

During the pendency of this appeal the appellant expired on 06/08/2020. Copy of the death certificate is filed as per the Pursis No.03/2021. The wife and two sons are the legal representatives. Due to the pandemic situation, steps could not be taken in time and that is why delay condonation application is also filed.

Yet the matter is to be admitted. The delay has been properly explained. Right to sue survives. Hence, order of abatement of the appeal is set aside. All the applications are allowed. Name of deceased appellant be deleted and names of legal representatives mentioned in the application in Application No.407/2021 be added. All applications are disposed of.

The matter be kept for admission after **three weeks**.

JUDGE