

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

945 SECOND APPEAL NO.254 OF 1992

**SANDU BALWANTA AND ANOTHER
VERSUS
GOPAL BHULANE (DIED) THR. L.RS. GOVINDA AND OTHERS.**

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Advocate for Appellants : Mr. Suvidh Kulkarni h/f.
Mr. R.S. Deshmukh & Mr. Amol Joshi.
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CORAM : MANGESH S. PATIL, J.

DATE : 31-03-2022

PER COURT :

. Mr. Suvidh Kulkarni h/f. Mr. Amol Joshi, learned advocate for the appellants seeks adjournment on the ground that Mr. Joshi is not keeping well.

2. As can be seen from the record, this is a Second Appeal by the original defendants, who are aggrieved and dissatisfied by the judgment and decree directing possession of 32 gunthas of the suit property to be delivered to the respondent - original plaintiff Gopal.

3. It is apparent that Gopal is no more and his legal heirs i.e. respondent nos.1-A to 1-F were brought on record. However, the Second Appeal has already been disposed of as either abated or dismissed as against respondent nos.1A, 1C to 1F. Though

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respondent no.1-B Bhunabai is dead, her four legal heirs were brought on record. The appeal has been dismissed or abated against three of them i.e. 1/B/1 to 1B/3. As can be seen only respondent no.1/B/4 is the person against whom the present appeal as of now stands.

4. Considering the fact that it is a decree for possession of the property, all these persons against whom the matter has been dismissed or disposed of as abated are necessary parties, the cause of action would not survive against respondent no.1/B/4 alone. The Second Appeal is, therefore, disposed of.

(MANGESH S. PATIL)
JUDGE

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Gajanan