

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

**909 CIVIL APPLICATION NO.1647 OF 2020
IN SA/374/2013**

**PARUBAI VISHWANATH NAGARGOJE AND ANR
VERSUS
BHAGOJI MAHADA NAGARGOJE DIED TH LRS JAGANNATH BHAGOJI
NAGARGOJE AND ORS**

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Advocate for Applicants : Mr. Quadri S.A.P.
Advocate for Respondents No. 1/1 to 1/3, 2/1, 2/2 and 3/1 : Mr. V.V.
Bhavthankar.

CORAM : MANGESH S. PATIL, J.

DATE : 03.03.2022.

PER COURT :

Though a prayer is made in this application for restoration of the second appeal, in fact the application itself seems to be redundant. Though it was dismissed in default for non compliance of the direction in the order dated 10.10.2017 for supplying the paper book within six months, by the order dated 20.03.2019 the appeal was restored and a time of one month was granted to the appellant to furnish the copy of the paper book.

2. Conspicuously, the period of one month was not a condition precedent nor was the consequence spelt out in the order for non compliance of the direction to furnish the paper book in one month.

3. In all probability due to misconception this order is being treated by both the sides as a conditional order, for non compliance with which the second appeal stood dismissed automatically, when in fact it does not.

4. The application is disposed of by granting time of one week to furnish paper book. If the paper book is not furnished within one week the Second Appeal shall stand dismissed automatically.

(MANGESH S. PATIL, J.)

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