

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

**CIVIL APPLICATION NO.2023 OF 2016
IN
SECOND APPEAL NO.453 OF 2010
WITH
CIVIL APPLICATION NO.2021 OF 2016
IN
SECOND APPEAL NO.445 OF 2010**

INDUBAI SHIVRAMKL BADGUJAR AND ORS.
VERSUS
BANSI BALIRAM TAGWALE DECEASED AND ORS.

...
Advocate for Appellant : Dhorde Vikram R.
Advocate for Respondent : Mr. Shah h/f. Mr. S.P. Brahme
...

CORAM : MANGESH S. PATIL, J.

DATE : 21.03.2022

PER COURT :

Though both these applications seek restoration of the respective Second Appeals, which accordingly to the appellants stood dismissed by operation of the order dated 23.11.2010, after hearing both the sides, it transpires that in fact the order dated 23.11.2010 only put the appellants to notice that if the steps were not taken to effect service to the unserved respondents, the matter would be dismissed.

2. Apparently, going by the wording of the order it was not a conditional order at all. Only the appellants were put to notice that the matters would be dismissed and it was not directed that it would stand dismissed if the steps are not taken, albeit, going by the office note put up

by the Section Officer concerned he interpreted the order as conditional one and treated the Appeals as dismissed as against the unserved respondents named therein.

3. The applications are redundant. There is no specific order directing dismissal of the Appeals against the unserved respondents. The applications are dispose of.

4. Learned advocate Mr. Shah holding for Mr. Brahme submits that he has instructions to appear on behalf of these very same unserved respondents.

5. Time of one week is granted to carry out amendment pursuant to the order passed on the applications to bring the legal representatives on record. After such exercise is over, list the Second Appeals for admission on 20.04.2022.

(MANGESH S. PATIL, J.)

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