

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

**CIVIL APPLICATION NO.11147 OF 2022
IN
SECOND APPEAL NO.520 OF 2022**

(Rajkumar s/o. Jivanrao Patwari, died,
Through L.Rs. Sunita wd/o. Rajkumar
Patwari and ors.

..Applicants

Vs.

Sow. Sunita Namdeo Maske and ors.

..Respondents

Mr.S.V.Shaikh, Advocate h/f. Mr.R.D.Biradar, Advocate for applicants

**CORAM : R.G. AVACHAT, J.
DATE : AUGUST 04, 2022**

ORDER :-

Heard.

2. It was a suit for perpetual injunction simplicitor. The trial Court dismissed the suit by judgment and decree dated 31.03.2010. The original plaintiff preferred First Appeal, being Regular Civil Appeal No.23 of 2010. The same came to be allowed on 22.03.2017. Against the judgment and decree passed in that appeal, present Second Appeal has been preferred.

3. It is now brought to the notice of this Court that original defendant no.1 – Rajkumar passed away on 31.08.2012 i.e. before the

judgment and decree passed in the first appeal. According to learned counsel for the applicants, the judgment and decree is nullity, at least, to the extent of it to have been passed against a dead person i.e. appellant no.1. According to him, the legal representatives of the deceased are obstructing the applicants' possession over the suit plots. The application to bring on record the legal representatives of the deceased appellant no.1 is, therefore, allowed.

[R.G. AVACHAT, J.]

KBP