

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

901 WRIT PETITION NO.10296 OF 2013

**GANPAT MAHALU BARSHILE, L.R. LILABAI
VERSUS
TANHUBAI NANABHAU PATHARE, L.RS. SHRIPATI AND OTHERS**

...
Adv. S.S. Jangada h/f. Adv. Prashant R.Nangare for Petitioner
Mr. S.S. Bora, Advocate for Respondent Nos.1 to 9

...
WITH
CIVIL APPLICATION NO.7661 OF 2016
IN
WRIT PETITION NO.10296 OF 2013

...

CORAM : SANDEEP V. MARNE, J.

DATE : 11-10-2022

PER COURT :

1. Mr. Bora, the learned Counsel appearing for respondent nos.1 to 9 fairly concedes that the impugned order dated 16.12.2013 can be set aside and the legal heirs of the original applicant before the District Court can be brought on record, so that the hearing of the appeal would take place.

2. The Counsels for both the parties are *ad idem* that the respondent nos.1 to 9 are contesting parties, whereas respondent nos.10 to 16 are not contesting parties. Therefore, mere non service of notice on respondent no.10 should not be reason to further delay

in decision of the present petition.

3. With consent of both the Counsels appearing before this Court, the impugned order dated 16.12.2013 stands set aside. The application for setting aside abatement of appeal is allowed. Miscellaneous Civil Appeal to proceed further.

4. Considering the fact that the present petition is pending since the year 2013 on the issue of setting aside the abatement of appeal, it is appropriate that the hearing of the appeal is expedited by the District Court, which is requested to hear the same as expeditiously as possible.

5. The Writ Petition stands disposed of.

6. Pending Civil Application stands disposed of.

(SANDEEP V. MARNE, J.)

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