

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7112 OF 2019

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Mr. Ashok Vithoba Ghone

..Petitioner

Versus

Mr. Ramchandra Shankar Kohmane
(Through his legal heirs)

Mr. Ashok Ramchandra Khomane and Ors.

..Respondents

Mr. Nikhil Chavan, for the Petitioner.

CORAM : NITIN W. SAMBRE, J.

DATE : 4th JANUARY, 2022

PC.

1. Mr. Nikhil Chavan, learned counsel for the petitioner informs that service on respondents is complete and the affidavit of service shall be placed on record within a period of one week from today.

2. In view of the statement that service on the respondents is complete and the appeal is still pending, in my opinion, present writ petition needs to be allowed for following reasons :-

- a) Though served, none appeared for the respondents to counter the submissions made by the counsel for the petitioner Mr. Nikhil Chavan.

- b) Since the legal heirs of the deceased respondents were already on record, the only formality required to be completed was filing pursis to that effect. As there was delay in taking steps, petitioners are put to condition that they shall be depositing cost of Rs.3000/- before the Appellate Court within a period of four weeks from today to which the objecting respondents shall be entitled to withdraw.

3. In the aforesaid background, the order impugned passed below Exhs.42 and 44 is set aside. The order of abatement of appeal against respondent Nos.4 and 6 to the appeal on 13th November, 2018 is set aside subject to compliance of the aforesaid condition.

4. The Appellate Court would proceed with the hearing of the appeal

5. The petition as such stands disposed of.

[NITIN W. SAMBRE, J.]