

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

**908 SECOND APPEAL NO.265 OF 2011
WITH
CA/5263/2015 IN SA/265/2011
WITH
CA/7898/2021 IN SA/265/2011**

**ASHOK MAHIPATI WAYAKINDE.
VERSUS
SHANTABAI KASHINATH MADE and OTHERS.**

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Advocate for Appellant:

Mr. A. D. Sonkawade h/f. Mr. A. V. Hon
Advocate for Respondent No.2: Mr. C. V. Korhalkar
Advocate for Respondent No.2J: Mr. A. D. Shinde
Advocate for Respondent No.2I: Mr. Sanjay Mundhe
Advocate for Respondents No.2A, 2D & 2E: Mr.
Omgashad B. Boinwad

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CORAM: ARUN R. PEDNEKER, J.

DATE: 19th JUNE, 2023

PER COURT:

1. Mr. A. D. Sonkawade holding for Mr. A. V. Hon, learned counsel for the appellant submits that, now, he is appearing for the appellant and Mr. Anil H. Kasliwal, learned Advocate's name may be discharged.

2. Mr. Anil H. Kasliwal, learned Advocate is discharged as an Advocate for the appellant.

3. In Civil Application No.5263 of 2015, heard the learned counsel for the applicant and the respondents.

4. Mr. C. V. Korhalkar, learned counsel for the respondent submits that although the application is within time, looking at the conduct of the applicant, heavy costs be imposed; as the legal heirs were not brought on record of respondent no.2 and it was not pointed out to this court.

5. In view of the same, without going much into this aspect, since, the application for restoration is filed within time, the same is allowed, on the condition of depositing costs of Rs.5,000/- (Rs. Five Thousand only) with the High Court Advocates Library, within a period of four (04) weeks from today.

6. In the Second Appeal, the learned counsel for the appellant to supply the copies to the appearing counsel of the legal heirs.

Issue notice to the remaining legal heirs, returnable on 31.07.2023.

7. The learned counsel for the appellant is directed to provide the paper book within a period of one (01) week from today to the learned counsel appearing for the respondents.

[ARUN R. PEDNEKER, J.]

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