

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

**WRIT PETITION NO.890 OF 2023**

**SAU. SUMANBAI PRABHAKAR PAZADE THROUGH GPA MACHINDRA  
KASHINATH RITHE  
VERSUS  
AMBADASRAO SAMPATRAO KOLHE AND OTHERS**

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Advocate for Petitioner : Mr. S.B. Joshi, Advocate and Mr. S.S.  
Patunkar, Advocate h/f J.p.legal Associates J.p.legal Associates  
Mr. V.P. Bakal, Advocate for Respondent Nos.2 to 6

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**CORAM : NITIN B. SURYAWANSHI, J.**

**DATE : 08<sup>th</sup> MARCH, 2023**

**PER COURT :**

1. By this petition filed under Article 227 of the Constitution of India, petitioner takes exception to the order dated 04/11/2022, passed by learned District Judge-3, Jalna, below Exhibit-1 in Regular Civil Appeal No.41/2019.
2. By the impugned order, appellate Court has dismissed the appeal filed by petitioner as the petitioner failed to take steps to take on record heirs of the deceased respondent and failed to pay the paper-book charges.
3. Heard learned advocate for petitioner and learned advocate for respondent Nos.2 to 6.
4. It appears from record that respondent Nos.3 to 6 are

the legal heirs of respondent No.1 and are already on record of the appeal.

5. Merely because there was failure on the part of petitioner to deposit paper-book charges, on this ground alone, the appellate Court was not justified in dismissing the appeal. The impugned order, therefore, cannot be sustained and the same is hereby quashed and set aside.

6. Writ petition is allowed. Petitioner shall pay cost of Rs.10,000/- to the respondents in the appellate Court and shall carryout necessary amendment within two weeks. Also, the petitioner shall deposit paper-book charges within two weeks from the date of receipt of writ of this order.

**(NITIN B. SURYAWANSHI, J.)**