



THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (CAS) NO. 1455 OF 2023
IN
SECOND APPEAL NO. 26 OF 2013

TARACHAND S/O. LAXMAN BHARRE

...**VERSUS**...

SARJABAI WD/O. KAULRAM NAKHATE (DEAD) THR. P.O.A.H. MAHENDRA S/O. BENIRAM NAKHATE (DELETED) & ORS.

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri A.V.Karnawat, Advocate h/f. Shri S.D.Sirpurkar, Advocate for appellant.
Shri S.S.Malode, Advocate for LR's. of respondent no. 2 and 10.

CORAM : SMT. M. S. JAWALKAR,J.

DATE : 03rd NOVEMBER, 2023

The present application is filed by the legal heirs of respondent nos. 2 and 10 for dismissal of present appeal as abated.

2. The appellant has filed the instant appeal challenging the Judgment and Decree dated 06/07/2012 passed by learned Principal District Judge, Gondia in R.C.A. No. 57/2007 whereby the Judgment and Decree dated 05/04/2007 passed by learned 3rd Jt. Civil Judge, Jr.Dn., Gondia in R.C.S. No. 96/2002 came to be confirmed.

3. This Court was pleased to admit the present appeal on 29/07/2015. The sole appellant Tarachand S/o. Laxman Bharre expired on 03/02/2021. No steps were taken for bringing the legal heirs of appellant on record till CAS No. 782/2022 was filed for dismissal the appeal as abated. In view thereof, the learned counsel for the appellant filed Civil Applications for condonation of delay, for bringing the legal heirs of deceased on record and for setting aside

abatement. The said applications came to be decided on 22/09/2022 by this Court imposing the costs of Rs. 5,000/- to be deposited with High Court Legal Aid Services Sub-Committee, Nagpur.

4. It appears that CAS No.1028/2022 came to be filed by the learned counsel for the appellant for grant of time to deposit the costs which was granted by this Court. Thereafter, again one CAS No. 186/2023 came to be filed by the appellant for modification of order which came to be rejected on 19/08/2023. Thus, it appears that for passing the order dated 22/09/2022 and thereby imposing the costs, more than one year has been lapsed but the said order is not complied with. There is no justifiable reasons put forth by the learned counsel for the appellant. As such, the present Second Appeal stands dismissed and disposed of as abated.

(Smt. M.S. Jawalkar, J.)

B.T.Khapekar