



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

920 CIVIL APPLICATION NO. 12231 OF 2023
IN WP/6096/2023
WITH
WRIT PETITION NO. 6096 OF 2023

Sanjay Kaduba Kakde And Ors
VERSUS
Syed Abbas Husain Ahmed Husain And Ors

...
Advocate for Applicant : Mr. M.V. Ghatge
AGP for petitioner in WP : Mr. S.S. Bora
...

CORAM : ARUN R. PEDNEKER, J.
Dated : March 14, 2024

PER COURT :-

1. Heard the learned counsel for the parties.
2. By way of present writ petition, the petitioners challenge the order dated 8.3.2023 passed by the learned Jt. Civil Judge, J.D., Purna on application below Exh. 247 in R.C.S. No. 19/2012, thereby passing order of abatement of suit to the extent of defendant No. 1.
3. The learned counsel for the respondent raises objection to the present writ petition by submitting that the order of abatement can be set aside by moving appropriate application before the Civil Court under Order XXII, Rule 4 (v) of C.P.C.
4. In view of the objection raised by the respondents, the learned counsel for the petitioners seeks leave to withdraw the present writ petition with liberty to approach the civil court to file application for setting aside the order of abatement. The learned counsel also seeks liberty to file writ petition again in the event, the application for legal heirship certificate is turned down. Subject to the right of the petitioner, the present writ petition

is dismissed with the liberty as prayed above.

4. However, in the interest of justice, interim relief granted earlier by this Court shall continue for the period of four weeks from today so as to enable the Trial Court to decide the application, that may be filed for setting aside the order of abatement. The learned counsel submits that he will move the application before the Trial Court within one week from today. The Trial Court to decide the application filed for setting aside the order of abatement before proceeding further in the suit.

5. With the above directions, the writ petition is disposed of. Civil Applications, if any, are also disposed of.

(ARUN R. PEDNEKER, J.)

ssc/