

Shabnoor

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

WRIT PETITION NO.11158 OF 2014

SHABNOOR
AYUB
PATHAN

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Babasaheb Ramchandra Powar & Ors. ... Petitioners

V/s.

Mohan Laxman Matkar & Ors. ... Respondents

Mr. Shantanu Patil i/by Mr. S. R. Ganbavale for
petitioners.

Mr. Datta H. Pawar for respondent No.1.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 29, 2024

P.C.:

- 1. Rule.** Rule is made returnable forthwith.
- 2.** The Trial Court by the impugned order has rejected the petitioners' application seeking permission to deposit the costs. It appears that the petitioners' suit was dismissed for non-prosecution. The restoration application filed by the petitioner bearing No.280 of 2004 was allowed subject to costs of Rs.250/-. The petitioners failed to deposit the costs within period of three years. Hence, the Trial Court rejected the application filed by the petitioners.
- 3.** The Advocate for respondent No.1 states that respondent No.1 has expired; however, passing of this order his present is not necessary.

4. Considering the facts of the case, the substantive rights of the parties over the immovable property are infringed. The Trial Court should adopt justice-oriented approach while exercising discretion, the Trial Court ought to have permitted the petitioners to deposit the costs. Hence, Rule is made absolute in terms of prayer clause (b).

5. The writ petition stands disposed of in above terms.

(AMIT BORKAR, J.)