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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 132 OF 2021
WITH
CIVIL APPLICATION NO. 102 OF 2016
IN
SECOND APPEAL NO. 132 OF 2021**

Himmatrao @ Hanumantrao Shamrao ... Appellant/Applicant
Patil

vs.

Santajirao Shamrao Patil and Ors ... Respondents

Mr. A.L. Gores i/b. Mr. Adity S. Desai for Appellant/Applicant.

Mr. Manoj Patil for Respondent Nos. 1 to 5.

CORAM : GAURI GODSE, J.

DATED : 23rd AUGUST 2024

ORDER:

1. Learned counsel appearing for respondent nos. 1 to 5 submits that the impugned judgment and decree was challenged by defendant no.1, by filing the Second Appeal no. 250 of 2015. He submits that the present appellant i.e. defendant no. 2, had filed a written statement which was adopted by defendant no.1. He further submits that the Second Appeal filed by defendant no.1 is dismissed

by order dated 3rd April 2017. He, therefore, submits that the impugned decree stands confirmed in the connected Second Appeal. Hence, the present Second Appeal also needs to be dismissed.

2. Learned counsel for the appellant submits that the sole appellant has expired and he needs time to take steps. Learned counsel for the respondent submits that the appellant has expired at least three years back and the appeal has abated. In view of the dismissal of the Second Appeal No. 250 of 2015, the impugned judgment and decree stands confirmed.

3. In view of the aforesaid, nothing survives for further consideration in the Second Appeal. Hence, Second Appeal is dismissed.

4. In view of the dismissal of the Second Appeal, pending civil application no. 102 of 2016 is dismissed as infructuous.

(GAURI GODSE, J.)