

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 16286 OF 2024.

Madhukar Ramchandra Pol

...Petitioner.

Versus

Parasram Tukaram Kadam Dec Thr Lrs And Ors

...Respondents.

Mr. Prajakt Arjunwadkar, for the Petitioner.
None for the Respondents.

Coram : Sharmila U. Deshmukh, J.

Date : November 13, 2024.

P. C. :

1. Heard.
2. By this petition, the order of dismissal of the Dispute on 18th December 2008, for non prosecution was set aside and restored. Application for restoration was filed on 17th June 2010, *inter alia* on the ground that the original disputant had expired and the legal heirs were not aware of the proceedings.
3. Learned Counsel appearing for the Petitioner point out that the Trial Court has itself held that one of the legal heirs was the constituted attorney of the original disputant and had deposed in evidence and was therefore aware of the proceedings. He would further point out that the restoration was permitted subject to compliance of payment of cost as per the order dated 15th February

2021, however, he on instructions, submits that the cost have not been deposited and therefore there could be no restoration.

4. Issue notice to the Respondent Nos. 1 (A) to 1 (D) and 2 returnable on **11th December, 2024**. In addition to Court notice, advocate for the Petitioner to serve the Respondents by private notice by all possible modes of service and file affidavit of service before the next date.

5. Considering the pendency of the present petition, the Trial Court is requested to defer the proceedings by a period of 6 weeks from today.

[Sharmila U. Deshmukh, J.]