



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

SECOND APPEAL NO. 701 OF 2013

Subhash Tulshiram Dirange .. Appellant

Versus

Venkat Tulshiram Dirange and others .. Respondents

Mrs. Ranjana D. Reddy, Advocate for the Appellant - absent.
Shri Sharad V. Natu, Advocate for the Respondent No. 1.

CORAM : SHAILESH P. BRAHME, J.
DATE : 30TH SEPTEMBER, 2025.

FINAL ORDER :

. When the matter is called out for hearing, none appears for the appellant.

2. Mr. S. V. Natu, learned counsel appears for the respondent No. 1, who had filed R.C.S. No. 108 of 2006 for recovery of encroached portion against three persons including appellant Subhash. The suit was decreed partly as against the defendant No. 3 - Dattatraya directing him to hand over possession of 02R of land and further enquiry of mesne profit was also directed. Being aggrieved, plaintiff himself preferred R.C.A. No. 83 of 2007. His appeal was allowed partly on 24.07.2013 decreeing his suit and directing the defendant No. 1 - Subhash Tulshiram Dirange to hand over encroached 20R to the plaintiff. Against the decree passed by the lower Appellate Court present appeal

has been preferred.

3. Learned counsel for the respondent No. 1 informs that his client died in the year 2023. It was pointed to this Court, which is reflected in order dated 16.02.2024 as well as 21.03.2024. Appellant has not taken any steps.

4. Today also none appears for the appellant. Appeal as against the respondent No. 1 stood abated. It is submitted that entire appeal would abate.

5. There is no executable decree in favour of the respondent Nos. 2 and 3, who are original defendant Nos. 2 and 3. The respondent No. 1 - plaintiff is decree holder. If the appellant has failed to take steps against him, then second appeal has to be abated in its entirety. There cannot be any segregation of claims. Second appeal is disposed of as abated.

[SHAILESH P. BRAHME J.]

bsb/Sept. 25