

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO. 51 OF 2014

Upendra Vishnupant Karhade
and others

.. Petitioners

Vs.

Milind Madhukarrao Karhade
and others

.. Respondents

None present for the petitioners

Ms. Vanita Sangole, Advocate i/b. Mr. A.M. Kulkarni, Advocate
for respondent no. 1

Mr. B.N. Patil, Advocate for the respondent no. 5

Mr. R.P. Phatke, A.G.P. for the respondent no. 6 and 7

CORAM : M.T. JOSHI, J.

DATE : 15/07/2015

ORAL ORDER :

None appears for the revision petitioners.

2. The record shows that none has appeared for petitioners for long time, though from time to time the matter was adjourned suo-motu.

3. Heard Ms. Sangole i/b. Mr. Kulkarni for respondent no. 1, Mr. B.N. Patil for respondent no.5 and learned A.G.P. for respondent nos.6 and 7.

4. The petitioners are aggrieved by the rejection of the application at Exhibit 90, whereby they wanted that suit be dismissed as one execution proceeding

between the parties was pending and the plaintiffs i.e. relevant respondents can very well file application under section 47 of the Code of Civil Procedure in the same execution proceeding. The trial court has adverted its attention to the similar issue raised earlier on the ground of maintainability of the suit, in view of the application of principle of res-judicata. The said order allowing the application was challenged in the writ petition and this Court while allowing the writ petition, dismissed the application of the defendants/petitioners.

5. The very same judgment, claimed to be res-judicata, is being executed and in the circumstances, since the issue was already decided by this Court earlier regarding the maintainability of the suit on the ground of res-judicata, there could not have been any subsequent application under the different garb i.e. application at Exhibit 90. On merit, therefore, the Civil Revision Application is hereby dismissed without any order as to costs.

[M.T. JOSHI]
JUDGE

arp/