

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

WRIT PETITION NO. 2979 OF 2015

SHANKARRAO NARAYANRAO KANAKDANDE, LRS
PRAKASH AND OTHERS

VERSUS

ATMARAM DAULATRAO POLE AND OTHERS

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Advocate for Petitioners : Mr R N Chavan h/f Mr. M.D.
Narwadkar

Advocate for Respondents : Mr A.R. Borulkar

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CORAM : V.K. JADHAV, J.

Dated: February 22, 2016

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PER COURT :-

1. The petitioner/plaintiff instituted a suit bearing Regular Civil Suit No.246 of 1974 for partition and separate possession. Said suit was partly decreed and accordingly, the petitioner/plaintiff filed a Regular Darkhast bearing R.D.No.20 of 2002 which is pending before the Executing Court. The respondents filed objection petition Exh.32 in the said pending Regular Darkhast. The learned Judge of the Executing Court had dismissed the objection petition Exh.32. Being aggrieved by the same, the respondents/objection petitioners preferred appeal bearing R.C.A No.11/2014 before the District Court, Kandhar and the same is

pending. During the pendency of the appeal, the learned District Judge-1, Kandhar, has stayed the further proceedings in Regular Darkhast No.20 of 2002. Hence, this writ petition.

2. The learned counsel for the petitioners submits that, the original suit is of the year 1974 and yet the Execution is pending before the Executing court. Learned counsel submits that, if the Lower Appellate Court is directed to dispose of the pending Regular Civil Appeal No.11 of 2014 within a time bound period, this writ petition can be disposed of.

3. Learned counsel for respondents submits that, the Lower Appellate Court may be directed to dispose of the appeal within a period of one year.

4. In the light of the above submissions, following order would meet the ends of justice.

ORDER

I. Writ Petition is hereby partly allowed.

- II. The learned District Judge-1, Kandhar, is hereby directed to dispose of the Regular Civil Appeal No.11 of 2014 expeditiously and preferably within a period of **THREE MONTHS** from the date of receipt of this order.
- III. Writ Petition is disposed of in above terms.
- IV. In the circumstances, there shall be no order as to costs.

(V.K. JADHAV, J.)

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aaa/-