

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (O) NO.1686 OF 2016
 IN
 MISC. CIVIL APPLICATION ST. NO.18167 OF 2016 (FOR REVIEW)
 IN
 WRIT PETITION NO.3494 OF 2015 (D)

VATSALABAI W/O SYAMRAOJI UKEY
 VS
 LATA WD/O PRAMOD UKEY AND 2 OTHERS

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri S. G. Karmarkar, Advocate for the applicants.
 Shri P. S. Sadavarte Advocate for the non-applicants.

CORAM : A.S. CHANDURKAR, J.
DATED : OCTOBER 14, 2016.

For the reasons mentioned in the application, the delay in filing review application is condoned.

Civil application is disposed of.

MISC. CIVIL APPLICATION ST. NO.18167 OF 2016

The original plaintiff – respondent in the writ petition has sought review of the judgment dated 21-6-2016. In the application, it has been stated that there were standing crops in the suit land which were required to be harvested and, therefore, possession could not be handed over immediately to the Bailiff. Order dated 23-8-2016 passed by the trial Court below Exhibit-35 in that regard is placed on record. It is submitted that the standing crops are liable to be removed and auctioned. For said purpose, review jurisdiction needs to be exercised.

The application is opposed by the learned Counsel for the non-applicants on the ground that the power of attorney holder himself was interested in the proceedings and the original plaintiff was not aware of any of the

developments. The act of the original plaintiff granting the power of attorney is itself under challenge.

Heard learned Counsel. Perused the order dated 23-8-2016 passed by the trial Court below Exhibit-35 which records crops to be standing in the suit land. In view of this position as noted by the trial Court, a case for issuing appropriate directions by exercising review jurisdiction is made out.

In furtherance of the earlier order dated 21-6-2016 the Receiver is free to auction said crops in accordance with law. Both the parties would be entitled to bid in the said auction and the same shall be subject to final outcome of the civil suit. The proceeds received from the auction shall be deposited by the Receiver with the trial Court for being duly invested. The party that has sown the crops can apply for withdrawal of said amount. As the suit has been filed by the plaintiff through her power of attorney holder, it would be open for the plaintiff to participate in said auction through her power of attorney holder. The objection raised by the non-applicants as regards the validity of the power of attorney will be decided in the civil suit. On the date of the auction, the plaintiff along with her power of attorney holder shall remain present before the Receiver.

The Misc. Civil application is disposed of in aforesaid terms. No costs.

JUDGE