

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

WRIT PETITION NO. 2599 OF 2017

Poshetti s/o Girmaji Muttepod
age 70 years, occ. Agril
r/o Sagroli, Tq. Biloli
Dist. Nanded

.. PETITIONER

VERSUS

Girmaji s/o narsappa Muttepod (died)
His legal heirs are already on record

1. Sailu s/o Girmaji Muttepod
age 55 years, occ. Agril
2. Bhumayya s/o Girmaji Muttepod
age 50 years, occ. Agril
3. Narsaya s/o Girmaji Muttepod
age 45 years, occ. Agril

All r/o Sagroli, Tq. Biloli
Dist. Nanded.

.. RESPONDENTS

Mr. B.R. Kedar, advocate for petitioner.

Mr. P.R. Katneshwarkar, advocate for respondents 1 to 3.

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CORAM : S. B. SHUKRE, J.

DATE : 24th FEBRUARY, 2017.

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith.
2. Heard finally by consent of learned counsel for the respective parties.
3. Prima facie, it appears that petitioner who is a judgment debtor is now making a last desperate attempt to hold on to the possession by filing application under section 47 of the Code of Civil Procedure and by filing appeal against the order which was not passed below that application. Now,

the appeal passed against that order being Regular Civil Appeal No. 8/2017 is pending for final disposal before the Court of District Judge, Biloli.

4. The judgment and order dated 14th October, 2009, which has now become decree is also unambiguous. The property which is to be handed over has been identified and, it appears that such identification has attained finality after the second appeal was dismissed by this court. So, in such case, the appeal itself needs to be finally disposed of as early as possible.

5. In this view of the matter, I find it necessary, in the interest of justice, to relegate the parties to the Court of District Judge with direction that the learned District Judge would finally decide the appeal expeditiously.

6. In the result, writ petition is allowed only to the extent of refusal to maintain status quo in the matter by substituting the impugned order. The learned District Judge shall dispose of Regular Civil Appeal No. 8/2017 within 15 days from the date of appearance of both the parties. The parties to appear before the learned District Judge on 7th March, 2017. The parties shall not seek any adjournment except for reasons beyond control and shall co-operate with the District Judge in finally disposing of the appeal. The parties shall maintain status quo in respect of the suit property till final disposal of the appeal. No costs. Rule made absolute in above terms.

(S. B. SHUKRE)
JUDGE